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Friday
March 10, 1995

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

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2. The relationship between the Federal Register and Code of Federal Regulations.
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

(THREE BRIEFINGS)

WHEN: March 23 at 9:00 am and 1:30 pm
April 20 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

DALLAS, TX

WHEN: March 30 at 9:00 am

WHERE: Conference Room 7A23
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Dallas, TX 75242

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Executive Order 12954 of March 8, 1995

Ensuring the Economical and Efficient Administration and Completion of Federal Government Contracts

Efficient economic performance and productivity are directly related to the existence of cooperative working relationships between employers and employees. When Federal contractors become involved in prolonged labor disputes with their employees, the Federal Government's economy, efficiency, and cost of operations are adversely affected. In order to operate as effectively as possible, by receiving timely goods and quality services, the Federal Government must assist the entities with which it has contractual relations to develop stable relationships with their employees.

An important aspect of a stable collective bargaining relationship is the balance between allowing businesses to operate during a strike and preserving worker rights. This balance is disrupted when permanent replacement employees are hired. It has been found that strikes involving permanent replacement workers are longer in duration than other strikes. In addition, the use of permanent replacements can change a limited dispute into a broader, more contentious struggle, thereby exacerbating the problems that initially led to the strike. By permanently replacing its workers, an employer loses the accumulated knowledge, experience, skill, and expertise of its incumbent employees. These circumstances then adversely affect the businesses and entities, such as the Federal Government, which rely on that employer to provide high quality and reliable goods or services.

NOW, THEREFORE, to ensure the economical and efficient administration and completion of Federal Government contracts, and by the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 486(a) and 3 U.S.C. 301, it is hereby ordered as follows:

Section 1. It is the policy of the executive branch in procuring goods and services that, to ensure the economical and efficient administration and completion of Federal Government contracts, contracting agencies shall not contract with employers that permanently replace lawfully striking employees. All discretion under this Executive order shall be exercised consistent with this policy.

Sec. 2. (a) The Secretary of Labor (''Secretary'') may investigate an organizational unit of a Federal contractor to determine whether the unit has permanently replaced lawfully striking workers. Such investigation shall be conducted in accordance with procedures established by the Secretary.

(b) The Secretary shall receive and may investigate complaints by employees of any entity covered under section 2(a) of this order where such complaints allege lawfully striking employees have been permanently replaced.

(c) The Secretary may hold such hearings, public or private, as he or she deems advisable, to determine whether an entity covered under section 2(a) has permanently replaced lawfully striking employees.

Sec. 3. (a) When the Secretary determines that a contractor has permanently replaced lawfully striking employees, the Secretary may make a finding that it is appropriate to terminate the contract for convenience. The Secretary shall transmit that finding to the head of any department or agency that contracts with the contractor.

(b) The head of the contracting department or agency may object to the termination for convenience of a contract or contracts of a contractor determined to have permanently replaced legally striking employees. If the head of the agency so objects, he or she shall set forth the reasons for not terminating the contract or contracts in a response in writing to the Secretary. In such case, the termination for convenience shall not be issued. The head of the contracting agency or department shall report to the Secretary those contracts that have been terminated for convenience under this section.

Sec. 4. (a) When the Secretary determines that a contractor has permanently replaced lawfully striking employees, the Secretary may debar the contractor, thereby making the contractor ineligible to receive government contracts. The Secretary shall notify the Administrator of the General Services Administration of the debarment, and the Administrator shall include the contractor on the consolidated list of debarred contractors. Departments and agencies shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors unless the head of the agency or his or her designee determines, in writing, that there is a compelling reason for such action, in accordance with the Federal Acquisition Regulation.

(b) The scope of the debarment normally will be limited to those organizational units of a Federal contractor that the Secretary finds to have permanently replaced lawfully striking workers.

(c) The period of the debarment may not extend beyond the date when the labor dispute precipitating the permanent replacement of lawfully striking workers has been resolved, as determined by the Secretary.

Sec. 5. The Secretary shall publish or cause to be published, in the **Federal Register**, the names of contractors that have, in the judgement of the Secretary, permanently replaced lawfully striking employees and have been the subject of debarment.

Sec. 6. The Secretary shall be responsible for the administration and enforcement of this order. The Secretary, after consultation with the Secretary of Defense, the Administrator of the General Services, the Administrator of the National Aeronautics and Space Administration, and the Administrator of the Office of Federal Procurement Policy, may adopt such rules and regulations and issue such orders as may be deemed necessary and appropriate to achieve the purposes of this order.

Sec. 7. Each contracting department and agency shall cooperate with the Secretary and provide such information and assistance as the Secretary may require in the performance of the Secretary's functions under this order.

Sec. 8. The Secretary may delegate any function or duty of the Secretary under this order to any officer in the Department of Labor or to any other officer in the executive branch of the Government, with the consent of the head of the department or agency in which that officer serves.

Sec. 9. The Secretary of Defense, the Administrator of the General Services, and the Administrator of the National Aeronautics and Space Administration, after consultation with the Administrator of the Office of Federal Procurement Policy, shall take whatever action is appropriate to implement the provisions of this order and of any related rules, regulations, or orders of the Secretary issued pursuant to this order.

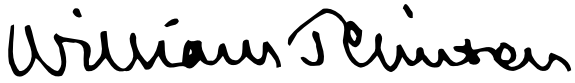
Sec. 10. This order is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. This order is not intended, however, to preclude judicial review of final agency decisions in accordance with the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

Sec. 11. The meaning of the term ''organizational unit of a Federal contractor'' as used in this order shall be defined in regulations that shall be issued by the Secretary of Labor, in consultation with affected agencies. This order

shall apply only to contracts in excess of the Simplified Acquisition Threshold.

Sec. 12. (a) The provisions of section 3 of this order shall only apply to situations in which contractors have permanently replaced lawfully striking employees after the effective date of this order.

(b) This order is effective immediately.



THE WHITE HOUSE,
March 8, 1995.

[FR Doc. 95–6121
Filed 3-8-95; 1:49 pm]
Billing code 3195–01–P

Rules and Regulations

Federal Register
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 582

RIN 3206—AF83

Commercial Garnishment of Federal Employees' Pay

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel management (OPM) is finalizing its interim regulations for processing garnishment actions affecting Federal employees' pay for commercial indebtednesses and tax obligations due to State and local governments. This part provides procedures and guidance for Executive Branch agencies of the Federal Government, not including the Postal Service or the Postal Rate Commission, to process commercial garnishment orders affecting the pay of civilian employees.

EFFECTIVE DATE: April 10, 1995.

FOR FURTHER INFORMATION CONTACT: Murray M. Meeker, Attorney, Office of the General Counsel, (202) 606–1980.

SUPPLEMENTARY INFORMATION: On October 6, 1993, Congress enacted the Hatch Act Reform Amendments of 1993, Public law 103–94, section 9, 5 U.S.C. 5520a, which waived the Federal Government's sovereign immunity to permit compliance with garnishment orders for commercial debts and tax indebtednesses to State and local governments. On February 3, 1994, the President signed Executive Order Number 12897 which delegated responsibility to OPM to issue implementing regulations for most of the Executive Branch, and on March 29, 1994, OPM issued an interim rule with request for comments. (59 FR 14541) In addition to receiving comments from more than twenty Federal agencies, private organizations, and individuals in response to this publication, OPM expressly elicited additional guidance from the Office of Management and Budget, the Department of Justice, the Department of Labor, the Federal Retirement Thrift Investment Board, and the United States Postal Service.

Several commenters requested clarification concerning whether moneys payable to contractors would be subject to garnishment. In response to these requests, we have amended the definition of employee in § 582.102(2). The amended definition provides that an individual whose employment is based on a contract is not an *employee* under this part. This amendment is consistent with judicial decisions which have recognized that Federal employment is not contractual. *See*, e.g., *United States* v. *The Citizens & Southern National Bank*, 889 F.2d 1067 (Fed. Cir. 1989). An employee organization was concerned that reemployed annuitants had been excluded from the definition of *employee*. In fact, reemployed annuitants are included in the definition of *employee* in § 582.102(2). However, we have amended the definition of *employee* to clarify that the pay of reemployed annuitants and reemployed retired members of the uniformed services is subject to garnishment.

An employee organization suggested that OPM's regulations indicate that regulations pertaining to the garnishment of the salaries of members of the uniformed services were to be promulgated by a separate authority. In response to this suggestion, we have added two additional sentences to the definition of agency in § 582.102(1). This employee organization also suggested that the definition of *person* be amended to include courts. In response to this suggestion, we have amended the definition of *person* in § 582.102(4) to include courts and other entities that are authorized to issue *legal process*.

Two commenters suggested that Federal agencies be permitted to use commercial garnishment as a method to collect debts due the United States. OPM has determined that as enacted, Public Law 103–94 does not provide for commercial garnishment actions by Federal agencies. OPM's determination is based on several factors. The primary reason being that Public Law 103–94 does not expressly provide for garnishment by the Federal Government, and there is no legislative history reflecting such an intent. Additionally, the principles of statutory interpretation require that all of the provisions of a statute be read together. *See United States* v. *Fausto*, 484 U.S. 439, 453 (1988). In accordance with this principle, OPM is mindful that in processing commercial garnishment orders, Congress has provided that debts due the United States are to be treated quite differently than commercial indebtednesses. To appreciate this difference, compare the exclusion provision in section 462(g) of the Social Security Act as incorporated in 5 U.S.C. 5520a(g) with the limitation provisions of section 1673 of title 15 of the United States Code (section 303 of the Consumer Credit Protection Act, as amended) as incorporated in 5 U.S.C. 5520a(b). In addition, there are several recent United States Supreme Court decisions which recognize a rebuttable presumption that the term *person* does not include the sovereign. *See International Primate Protection League* v. *Tulane Educ. Fund*, 111 S.Ct. 1700, 1707–1708 (1991); *Will* v. *Michigan Department of State Police*, 491 U.S. 58, 64 (1989); and *Mesa* v. *California*, 489 U.S. 121, 136 (1989). In an effort to clarify the matter, OPM has amended the definition of *person* in § 582.102(4) to expressly exclude the United States or an agency of the United States.

OPM has considered, but rejected a labor organizations' comment that the definition of *pay* in § 582.102(5) not include sick pay. We believe that the inclusion of sick pay is mandated by express language of 5 U.S.C. 5520a(a)(4) which expressly defines *pay* to include sick pay. In accordance with guidance received from the Department of Labor, we have expressly excluded ''amounts received under any Federal program for compensation for work injuries'' from the definition of *pay* in § 582.102(5).

One of the Federal agencies that provides payroll services to a host of Federal agencies advised OPM that they were treating support garnishment orders as exclusions under § 582.103. We have amended § 582.103 to clarify that amounts withheld in compliance with garnishment orders based on child and/or alimony obligations are *not* exclusions under this part.

One agency requested clarification concerning the exclusion in § 582.103(b)(1) of amounts withheld for benefits payable under title II of the Social Security Act. After consulting with the Social Security Administration, we have deleted that provision and renumbered the section.

Two commenters noted the exclusion in § 582.103(e) of all amounts contributed to the Thrift Savings Fund and asked whether amounts deducted for Thrift Savings Fund loan repayments were also to be excluded. In response to this comment, OPM requested guidance from the Federal Retirement Thrift Investment Board. OPM concurs with the Board's conclusion that these repayment amounts should not be added to the list of exclusions in § 582.103.

One agency commented that some of its employees were attempting to reduce their liability for garnishment orders by increasing their voluntary allotments. We would emphasize that only the items listed as exclusions in § 582.103 may be deducted from an employee-obligor's pay before a garnishment is processed. It may, therefore, be necessary to terminate a voluntary allotment in order to comply with a commercial garnishment order.

While one agency correctly noted that our exclusion for debts due the United States in § 582.103(a) does not list the various types of debts due the United States or the order of precedence for such debts, the General Accounting Office already maintains such a list.

While three Federal agencies expressed disagreement with the statement in § 582.202(a) that legal process need not expressly name the agency as a garnishee, this statement is mandated by the decision of the United States Court of Appeals for the Federal Circuit that was announced in *Millard* v. *United States,* 916 F.2d 1 (Fed. Cir. 1990). We have amended § 582.202(a) in response to one agency's comment to expressly include interrogatories.

One commenter noted that the interim regulations permitted State courts to garnish the salaries of persons who live and work in a different State and concluded that this raised ''a possible constitutional question'' as to the legality of the regulations. In fact, the Federal Government has been honoring garnishment orders based on child support and alimony obligations that extended beyond State boundaries for many years and OPM disagrees with any suggestion that such orders or the regulations that provide for the processing of such orders might be unconstitutional merely because they effect employee-obligors who live and/or work in other States. More importantly, OPM believes that this is another area where the Federal Government's responsibilities as an employer are limited and that an employing Federal agency is not required to review each order to determine whether the court that issued the order had lawfully acquired jurisdiction over the out-of-State obligor. *See United States* v. *Morton,* 467 U.S. 822, 828–830 (1984). This same commenter also suggested that the regulations be amended to require that in addition to providing the employee-obligor with a copy of the legal process, Federal agencies should be required to provide employee-obligors with copies of any other documents submitted with the legal process. OPM is confident that Federal agencies will use their discretion to provide their employees with copies of any accompanying documents that will be helpful or informative to the employee. However, to require that employing agencies provide all documentation regardless of relevance or potential value to the employee-obligor would, we believe, place an undue burden on Federal agencies.

Two agencies commented on the fact that § 582.202(b) does not mandate service by certified or registered mail. This provision is in accordance with the express language of 5 U.S.C. 5520a(c)(1) and does reflect a change from the provisions applicable to service of process for garnishment of child support and alimony obligations. OPM emphasizes that agencies may not construe *may* to mean *must;* it was the clear intent of Congress to permit less restrictive service of process under this part.

Several commenters, including an employee organization and a law firm that wrote on behalf of a collectors association, expressed a need to clarify the fact that a creditor need not necessarily know or provide all of the information listed in § 582.203(a), particularly the employee-obligor's date of birth or social security number, in order to have a garnishment order processed by a Federal agency. In an effort to clarify this fact, we have amended § 582.203(a). In response to a request from the Treasury Department, we have added a new section, § 582.204, concerning electronic disbursement.

Several commenters noted that two provisions in the interim regulations—§ 582.303(a) which reiterates the requirement in 5 U.S.C. 5520a(d) that agencies respond to interrogatories and § 582.306(c) which states that agencies shall provide information concerning subsequent employment—may conflict with the Privacy Act, 5 U.S.C. 552a, as implemented by numerous Federal regulations including OPM's own disclosure regulations codified at 5 CFR 297.402, which permit disclosure in response to legal process only where the legal process is signed by a judge. While it might be argued that 5 U.S.C. 5520a(d) should be construed as an implicit exception to the Privacy Act and to the regulations that agencies have promulgated to implement the Privacy Act, OPM strongly recommends that agencies establish routine uses that will enable them to respond to interrogatories served in accordance with this part and, where appropriate, to provide subsequent employment information, notwithstanding the absence of a judge's signature or some other omission otherwise barred by the agency's disclosure restrictions.

An employee organization commented that OPM exceeded its statutory authority by providing in § 582.303(a) that agencies may respond to garnishment orders after 30 days where a longer period is provided by local law as well as by State law as expressly stated in 5 U.S.C. 5520a(d). While OPM concurs that section 5520a(d) expressly refers only to State law, references to State law have historically included both State and local law. *See,* e.g., *Ex parte Virginia,* 100 U.S. 339 (1879), as discussed in *Civil Rights Cases,* 109 U.S. 3, 57–58 (1883) (Harlan, J., dissenting). For the same reason, we have declined to amend § 582.402 to exclude references to local law.

One agency suggested that § 582.303(a) be amended to clarify that agencies need only respond once to legal process. We have amended § 582.303(a) in response to this suggestion.

One agency commenter noted that § 582.303 was redundant and suggested that the word *effectively* be replaced with the word *validly*. We have amended this section in response to these comments.

OPM received conflicting agency recommendations concerning the action to be taken where an employee-obligor appeals a garnishment action, and we have decided not to amend § 582.305(c) at this time.

An association of collection attorneys commented that in the collection world there are two major areas: *commercial* and *retail* with *commercial* referring to the collection of debts from firms and *retail* referring to collection from consumers. While we appreciate the fact that our terminology is not consistent with the nomenclature used by some private attorneys, we have determined

that no other term would be as generally understood as the term *commercial* for the purpose of distinguishing garnishment actions under this part from garnishment actions based on child support and alimony obligations.

Several commenters requested that the regulations clarify the effect of a garnishment order for child support and/or alimony on the processing of a commercial garnishment order. In response to these requests, we have amended §§ 582.305(f) and 582.402(a) to better explain the interrelationship between the two types of legal process.

One commenter requested that OPM delete § 582.305(k) because by permitting Federal agencies to charge fees in commercial garnishment actions while not having a similar provision relating to support garnishment actions, OPM's regulations were possibly discriminatory against women. OPM would emphasize that while the child support and alimony garnishment provisions in the Social Security Act do not provide for administrative costs or processing fees, Congress has expressly provided for such fees in the processing of commercial garnishment actions. See 5 U.S.C. 5520a(j)(2).

In response to an employee organization's suggestion, we have amended § 582.305(k) concerning the administrative fees. Three commenters suggested that OPM establish uniform administrative fees. Instead, OPM has deferred to individual agencies to determine whether administrative fees should be assessed and in what amounts based on their own cost figures. OPM has been advised that several agencies have established and have begun to assess administrative fees based on their costs in processing commercial garnishment orders.

While 5 U.S.C. 5520a(h)(1) provides that legal process shall be processed on a first come, first served basis, the laws in several jurisdictions, including California and the District of Columbia, provide that legal process may only be satisfied on a ''one at a time'' basis. Based on this information, we have amended § 582.402(a) in an effort to eliminate any confusion that may exist in these jurisdictions. In accordance with guidance received from the Department of Labor, we have also amended § 582.402(a) to provide that administrative costs or fees provided under § 582.305(k) must be included in the amounts subject to the garnishment restrictions of the Consumer Credit Protection Act. In other words, an agency may not withhold more than 25% of an employee-obligor's aggregate disposable earnings in order to offset administrative costs. Rather, the amount to be withheld in compliance with the legal process would have to be reduced in order that the administrative costs could be recovered without exceeding the maximum garnishment limitations.

OPM received comments from two Federal agencies concerning the processing of garnishment orders where the employee-obligor has filed a bankruptcy petition. We have amended § 582.305(l) in accordance with these recommendations. One individual commented that the regulations failed to recognize exemptions which employees may be entitled to under various provisions of State law. We would direct the commenter to § 582.402(a) which encompasses these exemption provisions.

However, we would also emphasize that it is primarily the employee-obligor's responsibility and not the employee-obligor's employer's responsibility to ensure that the debtor is allowed all of the exemptions to which the employee-obligor is entitled under State law.

Four commenters recommended that § 582.402(b) be amended to apply only where the bankruptcy action is under Chapter 13, and one agency commented that § 582.402(b) should also include Federal tax levies. In response to these comments and after conferring with the Department of Labor which administers the Consumer Credit Protection Act, we have amended § 582.402(b) to incorporate these recommendations.

While OPM is sympathetic to agencies and individuals who complained that the time limitations, particularly with regard to notifying employees stationed overseas, are too short, these time limitations are statutory and OPM's implementing time limit provisions only repeat these statutory limits. See 5 U.S.C. 5520a(d). OPM does not believe that it has the authority to extend these time limits even where the garnishment order being processed will affect the pay of an employee stationed overseas. *See Federal Election Commission* v. *Democratic Senatorial Campaign Committee,* 454 U.S. 27, 32 (1981).

Two commenters expressed concern regarding whether any time limit existed concerning the age of the underlying judgment that the garnishment order was attempting to enforce. Because Public Law 103–94 does not address this issue, we believe that the answer would depend on the law of the jurisdiction from which the garnishment order was issued and that, in any event, as long as the order was ''regular on its face,'' it would not be the employing agency's burden to determine whether the garnishment order had been issued in accordance with the limitation provisions of the jurisdiction from which the order was issued. *See United States* v. *Morton, supra,* at 828–830 (the Federal Government need only ascertain that legal process is ''regular on its face''). In other words, this is an issue that the employee-obligor would be responsible for contesting rather than the employing agency. Similarly, we do not believe that the agency bears the burden of determining when garnishment orders themselves expire, except, of course, where the order, on its face, indicates when it will expire.

While most of the comments focused on the interim regulations, several commenters stressed the need for a garnishment application form. In response to these requests, OPM sought and obtained approval from the Office of Management and Budget to issue a voluntary garnishment application form. In addition, OPM has elicited suggestions from several other Federal agencies concerning a voluntary application form and is currently reviewing those suggestions.

One agency requested additional guidance concerning what action should be taken where an agency is advised that the garnishment action should either be terminated or that the amount being garnished should be reduced as a result of a payment having been made or an agreement having been reached between the parties. While OPM has not attempted at this time to promulgate regulations that would dictate the actions that must be taken in such situations, OPM urges agencies to exercise their discretion in determining when a garnishment action should be terminated or modified as a result of such payments or agreements between the parties.

An issue that provoked numerous comments concerned the payment of interest. For the most part, it is our understanding that agencies have had no particular difficulty in garnishing amounts for interest that were included in the judgment total or judgment amount provided in the garnishment order, but several States, including Maryland and Hawaii, issue orders that do not expressly state a dollar figure for all of the interest that may be subject to garnishment. While 5 U.S.C. 5520a(b) provides that Federal agencies will be ''subject to legal process in the same manner and to the same extent as if the agency were a private person,'' section 5520a(a)(3)(B) defines *legal process,* in pertinent part, as a writ, order, or summons that orders the employing agency to withhold ''an amount'' from the employee-obligor's pay. There is, therefore, an ambiguity in the statute as

concerns the garnishment of sums such as interest that are not expressly included in the order, and absent clearer statutory language, OPM declines at this time to promulgate a regulation that would require agencies to compute and pay interest that is not included in the amount specified in the garnishment order.

A process serving company in the District of Columbia advised OPM that while some agencies facilitate service of process on their employees, other agencies did not. In response to this information, OPM requested guidance from the Justice Department and was advised that when it comes to gaining access to restricted Governmental worksites, process servers have no more rights than anyone else and that a regulatory provision concerning this matter would be inappropriate.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that these regulations will not have significant economic impact on a substantial number of small entities because their effects are limited to Federal employees and their creditors.

List of Subjects in 5 CFR Part 582

Claims.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is revising part 582 of title 5, Code of Federal Regulations as follows:

PART 582—COMMERCIAL GARNISHMENT OF FEDERAL EMPLOYEES' PAY

Subpart A—Purpose, Definitions, and Exclusions

Subpart B—Service of Legal Process

Subpart C—Compliance With Legal Process

Subpart D—Consumer Credit Protection Act Restrictions

Subpart E—Implementation by Agencies

Authority: 5 U.S.C. 5520a; 15 U.S.C. 1673; E.O. 12897

Subpart A—Purpose, Definitions, and Exclusions

§ 582.101 Purpose.

Section 5520a of title 5 of the United States Code provides that with certain exceptions set forth in this part, pay from an agency to an employee is subject to legal process in the same manner and to the same extent as if the agency were a private person. The purpose of this part is to implement the objectives of section 5520a as they pertain to each executive agency of the United States Government, except with regard to employees of the United States Postal Service, the Postal Rate Commission, and the General Accounting Office.

§ 582.102 Definitions.

In this part—(1) *Agency* means each agency of the executive branch of the Federal Government, excluding the United States Postal Service, the Postal Rate Commission, and the General Accounting Office; *agency* does not include the government of the District of Columbia or the territories and possessions of the United States. (Section 5520a(j)(1) of title 5 of the United States Code provides that separate implementing regulations shall be promulgated by the legislative branch and the judicial branch; section 5520a(k) provides that separate implementing regulations shall be promulgated with regard to members of the uniformed services; and Executive Order 12897 provides that separate implementing regulations shall be promulgated with regard to employees of the United States Postal Service. The regulations promulgated for employees of the United States Postal Service also apply to employees of the Postal Rate Commission.)

(2) *Employee* or *employee-obligor* means an individual who is employed by an *agency* as defined in this section, including reemployed annuitants and retired members of the uniformed services who are employed by an agency. *Employee* does not include a retired employee, member of the uniformed services, a retired member of the uniformed services, or an individual whose service is based on a contract, including individuals who provide personal services based on a contract with an agency.

(3) *Legal process* means any writ, order, summons, or other similar process in the nature of garnishment, which may include an attachment, writ of execution, court ordered wage assignment, or tax levy from a State or local government, which—

(i) Is issued by:

(A) A court of competent jurisdiction, including Indian tribal courts, within any State, territory, or possession of the United States, or the District of Columbia. As stated in § 582.101, pay is subject to legal process in the same manner and to the same extent as if the agency were a private person. There is, therefore, no requirement in this part that, for example, legal process be signed by a Judge; or.

(B) An authorized official pursuant to an order of a court of competent jurisdiction or pursuant to State or local law; or

(C) A State agency authorized to issue income withholding notices pursuant to State or local law; and

(ii) Orders an agency to withhold an amount from the pay of an employee-obligor and to make a payment of such withholding to a *person*, for a specifically described satisfaction of a legal debt of the employee-obligor, or recovery of attorney fees, interest, or court costs;

(4) *Person* may include an individual, partnership, corporation, association, joint venture, private organization or other legal entity, and includes the plural of that term; *person* may include any of the entities that may issue *legal process* as set forth in § 582.102(3)(i)(A), (B), and (C), and a State or local government as well as a foreign entity or a foreign governmental unit, but does not include the United States or an agency of the United States.

(5) In conformance with 5 U.S.C. 5520a, *pay* means basic pay; premium pay paid under chapter 55, subchapter V, of title 5 of the United States Code; any payment received under chapter 55, subchapters VI, VII, or VIII, of title 5 of the United States Code; severance pay and back pay under chapter 55, subchapter IX, of title 5 of the United States Code; sick pay, and any other paid leave; incentive pay; locality pay (including interim geographic adjustments, special pay adjustments for law enforcement officers, and locality-based comparability payments); back pay awards; and any other

compensation paid or payable for personal services, whether such compensation is demoninated as pay, wages, salary, lump-sum leave payments, commission, bonus, award, or otherwise; but does not include amounts received under any Federal program for compensation for work injuries; awards for making suggestions, reimbursement for expenses incurred by an individual in connection with employment, or allowances in lieu thereof as determined by the employing agency.

§ 582.103 Exclusions.

In determining the amount of pay subject to garnishment under this part, there shall be excluded amounts which:

(a) Are owed by the employee-obligor to the United States;

(b) Are required by law to be deducted from the employee-obligor's pay, including, but not limited to amounts deducted in compliance with the Federal Insurance and Contributions Act (FICA), including amounts deducted for Medicare and for Old Age, Survivor, and Disability Insurance (OASDI);

(c) Are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the employee-obligor claimed all dependents to which the employee-obligor were entitled. The withholding of additional amounts pursuant to section 3402(i) of title 26 of the United States Code may be permitted only when the employee-obligor presents evidence of a tax obligation which supports the additional withholding;

(d) Are deducted as health insurance premiums;

(e) Are deducted as normal retirement contributions, not including amounts deducted for supplementary coverage. For purposes of this section, all amounts contributed under sections 8351 and 8432(a) of title 5 of the United States Code to the Thrift Savings Fund are deemed to be normal retirement contributions. Except as provided in this paragraph, amounts voluntarily contributed toward additional retirement benefits are considered to be supplementary;

(f) Are deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Federal Employees' Group Life Insurance premiums for ''Basic Life'' coverage are considered to be normal life insurance premiums; all optional Federal Employees' Group Life Insurance premiums and any life insurance premiums paid for by allotment are considered to be supplementary.

(g) Amounts withheld in compliance with legal process based on child support and/or alimony indebtedness are not exclusions.

Subpart B—Service of Legal Process

§ 582.201 Agent to receive process.

(a) Except as provided in appendix A to this part, appendix A to 5 CFR part 581 lists agents designated to accept service of process under part 581 and this part.

(b) United States Attorneys are not considered appropriate agents to accept service of process.

§ 582.202 Service of legal process.

(a) A person using this part shall serve interrogatories and legal process on the agent to receive process as explained in § 582.201. Where the legal process is directed to an agency, and the purpose of the legal process is to compel an agency to garnish an employee's pay, the legal process need not expressly name the agency as a garnishee.

(b) Service of legal process may be accomplished by certified or registered mail, return receipt requested, or by personal service only upon the agent to receive process as explained in § 582.201, or if no agent has been designated, then upon the head of the employee-obligor's employing agency. The designated agent shall note the date and time of receipt on the legal process.

(c) Parties bringing garnishment actions shall comply with the service of process provisions in this section. Service will not be effective where parties fail to comply with the service of process provisions of this section, notwithstanding whether the person bringing the garnishment action has complied with the service of process requirements of the jurisdiction issuing the legal process.

§ 582.203 Information minimally required to accompany legal process.

(a) Sufficient identifying information must accompany the legal process in order to enable processing by the agency. Parties seeking garnishment actions, therefore, should provide as many of the following identifying pieces of information concerning the employee-obligor as possible:

(1) Full name;

(2) Date of birth;

(3) Employment number or social security number;

(4) Component of the agency for which the employee-obligor works;

(5) Official duty station or worksite; and

(6) Home address or current mailing address.

(b) If the information submitted is not sufficient to identify the employee-obligor, the legal process shall be returned directly to the court, or other authority, with an explanation of the deficiency. However, prior to returning the legal process, if there is sufficient time prior to the time limits imposed in § 582.303, an attempt should be made to inform the person who caused the legal process to be served, or the person's representative, that it will not be honored unless adequate identifying information is supplied.

§ 582.204 Electronic disbursement.

The party designated to receive the garnished funds may forward a written request to the garnishing agency to have the funds remitted by electronic funds transfer, rather than by paper check. The request shall include the designated party's name, address, and deposit account number, and the name, address, and 9-digit routing transit number of the designated party's financial institution. Written requests accompanying service of process will be honored beginning with the first remission of garnished funds. Written requests received by the agency subsequent to service of process will be honored in as timely a manner as the agency deems feasible.

Subpart C—Compliance With Legal Process

§ 582.301 Suspension of payment.

Upon proper service of legal process as specified in §§ 582.202 and 582.203, the agency shall suspend, i.e., withhold, payment of such moneys for the amount necessary to permit compliance with the legal process in accordance with this part.

§ 582.302 Notification of employee-obligor.

(a) As soon as possible, but not later than 15 calendar days after the date of valid service of legal process, the agent designated to accept legal process shall send to the employee-obligor, at his or her duty station or last known home address, written notice that such process has been served, including a copy of the legal process;

(b) The agency may provide the employee-obligor with the following additional information:

(1) Copies of any other documents submitted in support of or in addition to the legal process;

(2) Notice that the United States does not represent the interests of the employee-obligor in the pending legal proceedings; and

(3) Advice that the employee-obligor may wish to consult legal counsel regarding defenses to the legal process that he or she may wish to assert.

§ 582.303 Response to legal process or interrogatories.

(a) Whenever the designated agent is validly served with legal process, the agent shall respond within 30 calendar days after receipt, or within such longer period as may be prescribed by applicable State or local law. The agent shall also respond within this time period to interrogatories which accompany legal process. Notwithstanding State law, an agent need only respond once to legal process.

(b) If State or local law authorizes the issuance of interrogatories prior to or after the issuance of legal process, the agent shall respond to the interrogatories within 30 calendar days after being validly served, or within such longer period as may be prescribed by applicable State or local law.

§ 582.304 Nonliability for disclosure.

(a) No agency employee whose duties include responding to interrogatories pursuant to § 582.303(b), shall be subject to any disciplinary action or civil or criminal liability or penalty for any disclosure of information made in connection with the carrying out of any duties pertaining directly or indirectly to answering such interrogatories.

(b) However, an agency would not be precluded from taking disciplinary action against an employee who consistently or purposely failed to provide correct information requested by interrogatories.

§ 582.305 Honoring legal process.

(a) The agency shall comply with legal process, except where the process cannot be complied with because:

(1) It is not regular on its face.

(2) The legal process would require the withholding of funds not deemed pay as described in § 582.102(a)(5).

(3) It does not comply with section 5520a of title 5 of the United States Code or with the mandatory provisions of this part; or

(4) An order of a court of competent jurisdiction enjoining or suspending the operation of the legal process has been served on the agency.

(b) While an agency will not comply with legal process which, on its face, indicates that it has expired or is otherwise no longer valid, legal process will be deemed valid notwithstanding the fact that the underlying debt and/or the underlying judgment arose prior to the effective date of section 5520a of title 5 of the United States Code.

(c) While the filing of an appeal by an employee-obligor will not generally delay the processing of a garnishment action, if the employee-obligor establishes to the satisfaction of the employee-obligor's agency that the law of the jurisdiction which issued the legal process provides that the processing of the garnishment action will be suspended during an appeal and if the employee-obligor establishes that he or she has filed an appeal, the employing agency shall comply with the applicable law of the jurisdiction and delay or suspend the processing of the garnishment action.

(d) Under the circumstances set forth in § 582.305 (a) or (b), or where the agency is directed by the Justice Department not to comply with the legal process, the agency shall respond directly to the court, or other authority, setting forth its reasons for non-compliance with the legal process. In addition, the agency shall inform the person who caused the legal process to be served, or the person's representative, that the legal process will not be honored. Thereafter, if litigation is initiated or appears imminent, the agency shall immediately refer the matter to the United States Attorney for the district from which the legal process issued. To ensure uniformity in the executive branch, agencies which have statutory authority to represent themselves in court shall coordinate their representation with the United States Attorney.

(e) In the event that an agency is served with more than one legal process or garnishment order with respect to the same payments due or payable to the same employee, the agency shall satisfy such processes in priority based on the time of service: *Provided,* That in no event will the total amount garnished for any pay or disbursement cycle exceed the applicable limitation set forth in § 582.402. *Provided further,* That processes which are not limited in time shall preserve their priority based on time of service until fully satisfied. Generally, a modified order will retain its original priority while a time limited order will lose its priority after it has expired.

(f) Legal process to which an agency is subject under sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662) for the enforcement of an employee's legal obligation to provide child support or to make alimony payments, including child support or alimony arrearages, shall have priority over any legal process to which an agency is subject under this part. In addition to having priority, compliance with legal process to which an agency is subject under sections 459, 461, and 462 of the Social Security Act may exhaust the moneys available for compliance with legal process under this part. See § 582.402(a).

(g) Neither the United States, an executive agency, nor any disbursing officer shall be liable for any payment made from moneys due from, or payable by, the United States to any individual pursuant to legal process regular on its face, if such payment is made in accordance with this part. Where an agency initially determines that legal process should not be honored, if it subsequently determines that its initial determination was erroneous, it may correct its initial determination and honor the legal process. If an agency corrects an error or is required to do so by a court or other authority, under no circumstances will the agency be required to pay more than if it had originally honored the legal process.

(h) Agencies affected by legal process served under this part shall not be required to vary their normal pay or disbursement cycles to comply with the legal process. However, legal process, valid at the time of service, which is received too late to be honored during the disbursement cycle in which it is received, shall be honored, to the extent that the legal process may be satisfied, during the next disbursement cycle within the limits set forth in § 582.402. The fact that the legal process may have expired during this period would not relieve the agency of its obligation to honor legal process which was valid at the time of service. If, in the next disbursement cycle, no further payment will be due from the agency to the employee-obligor, the agency shall follow the procedures set forth in § 582.306.

(i) Agencies need not establish escrow accounts in order to comply with legal process. Therefore, even if the amount garnished by an agency in one disbursement cycle is not sufficient to satisfy the entire indebtedness, the agency need not retain those funds until the amount retained would satisfy the entire indebtedness. On the contrary, agencies will, in most instances, remit the garnished amount after each disbursement cycle. Agencies need not pro-rate payments for less than a full disbursement cycle.

(j) If an agency receives legal process which is regular on its face, the agency shall not be required to ascertain whether the authority which issued the legal process had obtained personal jurisdiction over the employee-obligor.

(k) At the discretion of the executive agency, the agency's administrative costs in executing a garnishment may be

added to the garnishment amount and the agency may retain costs recovered as offsetting collections. To facilitate recovery of these administrative costs, an administrative fee may be assessed for each legal process that is received and processed by an agency, provided that the fee constitutes the agency's administrative costs in executing the garnishment action.

(l) Where an employee-obligor has filed a bankruptcy petition under section 301 or 302 of title 11 of the United States Code, or is the debtor named in an involuntary petition filed under section 303 of title 11, the agency must cease garnishment proceedings affected by the automatic stay provision, section 362(a) of title 11. Upon filing a petition in bankruptcy or upon learning that he or she is the debtor named in an involuntary petition, the employee-obligor should immediately notify the agency. To enable the agency to determine if the automatic stay applies, the employee-obligor should provide the agency with a copy of the filing or a letter from counsel stating that the petition was filed and indicating the court and the case number, the chapter under which the petition was filed, whether State or federal exemptions were elected, and the nature of the claim underlying the garnishment order.

§ 582.306 Lack of entitlement by the employee-obligor to pay from the agency served with legal process.

(a) When legal process is served on an agency and the individual identified in the legal process as the employee-obligor is found not to be entitled to pay from the agency, the agency shall follow the procedures set forth in the legal process for that contingency or, if no procedures are set forth therein, the agency shall return the legal process to the court, or other authority from which it was issued, and advise the court, or other authority, that the identified employee-obligor is not entitled to any pay from the agency.

(b) Where it appears that the employee-obligor is only temporarily not entitled to pay from the agency, the court, or other authority, shall be fully advised as to why, and for how long, the employee-obligor's pay will not be garnished, if that information is known by the agency and if disclosure of that information would not be prohibited.

(c) In instances where an employee-obligor separates from employment with an agency that had been honoring a continuing legal process, the agency shall inform the person who caused the legal process to be served, or the person's representative, and the issuing court, or other authority, that the garnishment action is being discontinued. In cases where the employee-obligor has been employed by either another agency or by a private employer, and where this information is known by the agency, the agency shall provide the person with the designated agent for the new employing agency or with the name and address of the private employer.

Subpart D—Consumer Credit Protection Act Restrictions

§ 582.401 Aggregate disposable earnings.

In accordance with the Consumer Credit Protection Act, the *aggregate disposable earnings* under this part are the employee-obligor's pay less those amounts excluded in accordance with § 582.103.

582.402 Maximum garnishment limitations.

Pursuant to section 1673(a)(1) of title 15 of the United States Code (the Consumer Credit Protection Act, as amended) and the Department of Labor regulations to title 29, Code of Federal Regulations, part 870, the following limitations are applicable:

(a) Unless a lower maximum limitation is provided by applicable State or local law, the maximum part of an employee-obligor's aggregate disposable earnings subject to garnishment to enforce any legal debt other than an order for child support or alimony, including any amounts withheld to offset administrative costs as provided for in § 582.305(k), shall not exceed 25 percent of the employee-obligor's aggregate disposable earnings for any workweek. As appropriate, State or local law should be construed as providing a lower maximum limitation where legal process may only be processed on a one at a time basis. Where an agency is garnishing 25 percent or more of an employee-obligor's aggregate disposable earnings for any workweek in compliance with legal process to which an agency is subject under sections 459, 461, and 462 of the Social Security Act, no additional amount may be garnished in compliance with legal process under this part. Furthermore, the following dollar limitations, which are contained in title 29 of the Code of Federal Regulations, part 870, must be applied in determining the garnishable amount of the employee's aggregate disposable earnings:

(1) If the employee-obligor's aggregate disposable earnings for the workweek are in excess of 40 times the Fair Labor Standards Act (FLSA) minimum hourly wage, 25 percent of the employee-obligor's aggregate disposable earnings may be garnished. For example, when the FLSA minimum wage rate is $4.25 per hour, this rate multiplied by 40 equals $170.00 and thus, if an employee-obligor's disposable earnings are in excess of $170.00 for a workweek, 25 percent of the employee-obligor's disposable earnings are subject to garnishment.

(2) If the employee-obligor's aggregate disposable earnings for a workweek are less than 40 times the FLSA minimum hourly wage, garnishment may not exceed the amount by which the employee-obligor's aggregate disposable earnings exceed 30 times the current minimum wage rate. For example, at an FLSA minimum wage rate of $4.25 per hour, the amount of aggregate disposable earnings which may not be garnished is $127.50 [$4.25×30]. Only the amount above $127.50 is garnishable.

(3) If the employee-obligor's aggregate disposable earnings in a workweek are equal to or less than 30 times the FLSA minimum hourly wage, the employee-obligor's earnings may not be garnished in any amount.

(b) There is no limit on the percentage of an employee-obligor's aggregate disposable earnings that may be garnished for a Federal, State or local tax obligation or in compliance with an order of any court of the United States having jurisdiction over bankruptcy cases under Chapter 13 of title 11 of the United States Code. Orders from courts having jurisdiction over bankruptcy cases under Chapter 7 or Chapter 11 of the United States Code are subject to the maximum garnishment restrictions in § 582.402(a).

Subpart E—Implementation by Agencies

§ 582.501 Rules, regulations, and directives by agencies.

Appropriate officials of all agencies shall, to the extent necessary, issue implementing rules, regulations, and/or directives that are consistent with this part.

Appendix A to Part 582—List of Agents Designated To Accept Legal Process

Note: The agents designated to accept legal process are listed in appendix A to part 581 of this chapter. This appendix A to part 582 provides listings only for those executive agencies where the designations differ from those found in appendix A to part 581 of this chapter.

I. Departments

Department of Defense. Defense Finance and Accounting Service, Cleveland Center, Office of General Counsel,

Attention: Code L, P.O. Box 998002, Cleveland, OH 44199–8002, (216) 522–5301.

Agents for receipt of all legal process for all Department of Defense civilian employees except where another agent has been designated as set forth below.

For requests that apply to employees of the Army and Air Force Exchange Service or to civilian employees of the Defense Contract Audit Agency (DCAA) and the Defense Logistics Agency (DLA) who are employed outside the United States: See appendix A to part 581 of this chapter.

For requests that apply to civilian employees of the Army Corps of Engineers, the National Security Agency, the Defense Intelligence Agency, and non-appropriated fund civilian employees of the Air Force, serve the following offices:

Army Corps of Engineers. U.S. Army Corps of Engineers, Omaha District, Central Payroll Office, Attn: Garnishments, P.O. Box 1439 DTS, Omaha, NE 68101–1439, (402) 221–4060.

Army Nonappropriated Fund Employees in Europe. Commander, 266th Theater Finance Command, NAF Payroll, Unit #29001–07, APO AE 09007–0137, 011–49–6221–57–7752, DSN 379–7752.

National Security Agency. General Counsel, National Security Agency/ Central Security Service, 9800 Savage Rd., Ft. George G. Meade, MD 20755–6000, (301) 688–6705.

Defense Intelligence Agency. Office of General Counsel, Defense Intelligence Agency, Pentagon, 2E238, Washington, DC 20340–1029, (202) 697–3945.

Air Force Nonappropriated Fund Employees. Office of General Counsel, Air Force Services Agency, 10100 Reunion Place, Suite 503, San Antonio, TX 78216–4138, (210) 652–7051.

For civilian employees of the Army, Navy and Marine Corps who are employed outside the United States, serve the following offices:

Army Civilian Employees in Europe. Commander, 266th Theater Finance Command, ATTN: AEUCF–CPF, APO AE 09007–0137, 011–49–6221–57–6303/2136, DSN 370–6303/2136.

Army Civilian Employees in Japan. Commander, U.S. Army Finance and Accounting Office, Japan, ATTN: APAJ–RM–FA–E–CP, Unit 45005, APO AP 96343–0087, DSN 233–3362.

Army Civilian Employees in Korea. Commander, 175th Finance and Accounting Office, Korea, ATTN: EAFC–FO (Civilian Pay), Unit 15300, APO AP 96205–0073, 011–822–791–4599, DSN 723–4599.

Army Civilian Employees in Panama. DCSRM Finance & Accounting Office, ATTN: SORM–FAP–C, Unit 7153, APO AA 34004–5000, 011–507–287–6766, DSN 287–5312.

Navy and Marine Corps Civilian Employees Overseas. Director of the Office of Civilian Personnel Management, Office of Counsel, Office of Civilian Personnel Management (OCPM–OL), Department of the Navy, 800 N. Quincy Street, Arlington, VA 22203–1990, (703) 696–4717.

Navy and Marine Corps Nonappropriated Fund Employees. The agents are the same as those designated to receive garnishment orders of Navy and Marine Corps nonappropriated fund personnel for the collection of child support and alimony, published at 32 CFR part 734 (1994 ed.), except as follows:

For non-civil service civilian personnel of the Navy Exchanges or related nonappropriated fund instrumentalities administered by the Navy Exchange Service Command: Commander, Navy Exchange Service Command, ATTN: Human Resources Beverly Building, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23453–5274, (804) 631–3675.

For non-civil service civilian personnel of Marine Corps nonappropriated fund instrumentalities, process may be served on the Commanding Officer of the employing activity ATTN: Morale, Welfare and Recreation Director.

Department of the Interior. Chief, Payroll Operations Division Attn: Code: D–2605, Bureau of Reclamation. Administrative Service Center, Department of the Interior, P.O. Box 272030, 7201 West Mansfield Avenue, Denver, CO 80227–9030, (303) 969–7739.

[FR Doc. 95–5951 Filed 3–9–95; 8:45 am]

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5 CFR Part 843

RIN 3206–AF91

Federal Employees Retirement System—Computation of the Basic Employee Death Benefit for Customer Officers

AGENCY: Office of Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations concerning the use of overtime and premium pay in determining the final annual rate of basic pay of customs officers under the Federal Employees Retirement System (FERS). These regulations establish the methodology (similar to the one that OPM uses for other flexible schedule employees) that the employing agency will use to compute customs officers' ''final annual rate of basic pay'' for determining FERS ''basic employee death benefit.'' The regulations are necessary to implement the changes in the statutory definition of basic pay under FERS made by the Omnibus Budget Reconciliation Act of 1993.

EFFECTIVE DATE: April 10, 1995.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On October 5, 1994, we published (at 59 FR 50705) proposed regulations to implement section 13812 of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66, concerning the use of overtime and premium pay in determining the final annual rate of basic pay of customs officers under the Federal Employees Retirement System (FERS). Section 13812 of Pub. L. 103–66 amended section 8331(3) of title 5, United States Code, the definition of basic pay under the Civil Service Retirement System (CSRS), to include, as basic pay for CSRS computations, certain overtime pay for customs officers. Section 8401(4) of title 5, United States Code, provides that the CSRS definition of basic pay in section 8331(3) applies to FERS. For customs officers, basic pay includes the regular pay under the general schedule, any applicable locality pay, and allowable overtime pay up to $12,500 per *fiscal* year. Basic pay is used to compute final salary for the basic employee death benefit under FERS.

We proposed a methodology for determining final salary similar to the one used for determining the ''final annual rate of basic pay'' of intermittent employees for the FERS basic employee death benefit established in section 843.102 of Title 5, Code of Federal Regulations. We received no comments on the proposed regulations. We are now issuing final regulations to adopt that methodology.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Federal employees and agencies and retirement payments to retired Government employees and their survivors.

List of Subjects in 5 CFR Part 843

Administrative practice and procedure, Claims, Disability benefits, Government employees, Intergovernmental relations, Pensions, Reporting and recordkeeping, Retirement.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Accordingly, OPM is amending 5 CFR part 843 as follows:

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

1. The authority citation for part 843 continues to read as follows:

Authority: 5 U.S.C. 8461; §§ 843.205, 843,208, and 843.209 also issued under 5 U.S.C. 8424; § 843.309 also issued under 5 U.S.C. 8442; § 843.406 also issued under 5 U.S.C. 8441.

2. In the definition of *final annual rate of basic pay* in section 843.102, paragraph (d) is added to read as follows:

§ 843.102 Definitions.

* * * * *

Final annual rate of basic pay * * *

(d) The annual pay for customs officers is the sum of the employee's general schedule pay, locality pay, and the lesser of—

(1) Two times the employee's final hourly rate of pay times the number of hours for which the employee was paid two times salary as compensation for overtime inspectional service under section 5(a) of the Act of February 11, 1911 (19 U.S.C. 261 and 267) plus three times the employee's final hourly rate of pay times the number of hours for which the employee was paid three times salary as compensation for overtime inspectional service under section 5(a) in the 52-week work year immediately preceding the end of the last pay period in which the employee was in pay status; or

(2) $12,500.

* * * * *

[FR Doc. 95–5835 Filed 3–9–95; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 28108; Amdt. No. 388]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, March 30, 1995.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The rule specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, navigation (air).

Issued in Washington, DC on February 24, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, March 30, 1995:

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, and 40120; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—AMENDMENT 388 EFFECTIVE DATE, MARCH 30, 1995

From	To	MEA
§ 95.1001 Direct Routes—U.S.95.48 Green Federal Airway 8 is Amended to Read in Part		
Elfee, AK NDB .	Crack, AK FIX ..	#*5000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—AMENDMENT 388 EFFECTIVE DATE, MARCH 30, 1995—Continued

From	To	MEA
*4100—MOCA #VHF COMMS avbl 5000 MSL and above #HF COMMS only below 5000 MSL		
Crack, AK FIX ..	Saldo, AK NDB	#*3000
*2300—MOCA #VHF/UHF COMMS avbl 9000 MSL and below #HF COMMS only below 9000 MSL		
Saldo, AK NDB	Copps, AK FIX .	*6000
*4400—MOCA		
Copps, AK FIX .	Kachemak, AK NDB.	6000
Campbell Lake, AK NDB.	Glennallen, AK NDB.	10200
§ 95.50 Green Federal Airway 10 is Amended by Adding		
Cape Newenham, AK NDB. #HF COMMS required below 8000	St Paul Island, AK NDB/DME.	#4000
St Paul Island, AK NDB/DME.	Bilbe, AK FIX ...	3000
Bilbe, AK FIX	Elfee, AK NDB .	*6000
*3800—MOCA		
Woody Island, AK NDB.	Kachemak, AK NDB.	6000
Is Amended to Read in Part		
Elfee, AK NDB .	Port Heiden, AK NDB/DME.	*5000
*4100—MOCA		
Port Heiden, AK NDB/DME.	Width, AK FIX ..	9000
Width, AK FIX ..	Woody Island, AK NDB.	*9000
*6300—MOCA		
§ 95.299 Red Federal Airway 99 is Amended by Adding		
St Paul Island, AK NDB/DME. #HF COMMS required below 8000 MSL	Dutch Harbor, AK NDB/DME.	#4700
Dutch Harbor, AK NDB/DME.	Saldo, AK NDB	*9000
*6300—MOCA		
Is Amended to Read in Part		
Iliamna, AK NDB/DME.	Copps, AK FIX .	*6000
*5300—MOCA		
Copps, AK FIX .	Kachemak, AK NDB.	6000
§ 95.637 Blue Federal Airway 37 is Amended to Read in Part		
Sumner Strait, AK NDB.	Elephant, AK NDB.	*7000
*6400—MOCA		
Elephant, AK NDB.	*Sparl, AK FIX .	**6000
*15000—MRA **5100—MOCA		
Bahama Route 4 Lima is Amended to Read in Part		
Rubin, FL NDB .	Mrlin, FL FIX	2000
Mrlin, FL FIX	Thong, BF FIX .	2000
Thong, BF FIX ..	Bimini, BF NDB	2000
Bahama Route 7 Lima is Amended to Delete		
Freeport, BF NDB.	West End/DCMSND, BF NDB.	*2000
*1400—MOCA		
West End/DCMSND, BF NDB.	Halbi, FL FIX	*2000
*1300—MOCA		
Halbi, FL FIX	Rubin, FL NDB	*2000
*1500—MOCA		
Bahama Route 8 Lima is Amended to Delete		
Plantation, FL NDB.	Janus, FL FIX ..	*2000
*1400—MOCA		
Janus, FL FIX ...	Padus, BF FIX .	*2000
*1200—MOCA		
Padus, BF FIX ..	Freeport, BF NDB.	*2000
*1400—MOCA		
Bahama Route 10 Lima is Amended to Read in Part		
Plantation, FL NDB.	Mrlin, FL FIX	2000
Mrlin, FL FIX	Islands, BF NDB.	2000
Bahama Route 20 Lima is Amended to Delete		
Satellite, FL NDB.	Axxel, BF FIX ...	*2000
*1500—MOCA		
Axxel, BF FIX ...	West End/Dcmsnd, BF NDB.	*2000
*1500–MOCA		
West End/Dcmsnd, BF NDB.	Freeport, BF NDB.	*2000
*1500–MOCA		
Bahama Route 21V is Amended to Read in Part		
Freeport, BF VOR/DME.	Halbi, BF FIX ...	2000
Halbi, BF FIX	Walik, FL FIX ...	6000
Walik, FL FIX ...	Palm Beach, FL VORTAC.	2000
Bahama Route 49L is Amended to Delete		
Andrew, FL NDB/DME.	Junur, FL FIX ...	2000
Junur, FL FIX ...	Clami, FL FIX ...	6000
Bahama Route 49V is Amended by Adding		
Virginia Key, FL VOR/DME.	Junur, FL FIX ...	2000
Junur, FL FIX ...	Fowee, FL FIX .	6000
Bahama Route 53 Lima is Amended to Delete		
Andrew, FL NDB/DME.	Refee, FL FIX ..	2000
Reefe, FL FIX ...	Bkene, BF FIX .	4000
Bkene, BF FIX ..	Swimm, BF FIX	4000
Swimm, BF FIX	Wooze, BF FIX	4000
Wooze, BF FIX .	Rajay, BF FIX ..	4000
Bahama Route 53V is Amended by Adding		
Virginia Key, FL VOR/DME.	Bkene, BF FIX .	4000
Bkene, BF FIX ..	Swimm, BF FIX	5000
Swimm, BF FIX	Wooze, BF FIX	9000
Wooze, BF FIX .	Rajay, BF FIX ..	11000
Bahama Route 54V is Amended to Read in Part		
Palm Beach, FL VORTAC.	Mrlin, FL FIX	2000
Mrlin, FL FIX	Nimro, FL FIX ..	2000
Nimro, FL FIX ...	Isaac, BF FIX ...	6000
Isaac, BF FIX ...	Oysta, BF FIX ..	8000
Oysta, BF FIX ..	Linle, BF FIX	6000
Bahama Route 55V		
Palm Beach, FL VORTAC.	Mrlin, FL FIX	2000
Mrlin, FL FIX	Nimro, FL FIX ..	2000
Bahama Route 63V		
Palm Beach, FL VORTAC.	Turps, FL FIX ...	2000
Turps, FL FIX ...	Halbi, FL FIX	4000
Halbi, FL FIX	Freeport, BF VOR/DME.	2000
Bahama Route 64V is Amended by Adding		
Virginia Key, FL VOR/DME.	Heatt, FL FIX ...	5000
Is Amended to Read in Part		
Heatt, FL FIX	Mrlin, FL FIX	5000
Mrlin, FL FIX	Munro, BF FIX .	5000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—AMENDMENT 388 EFFECTIVE DATE, MARCH 30, 1995—Continued

From	To	MEA
Munro, BF FIX ..	Freeport, BF VOR/DME.	2000
Bahama Route 65V		
Freeport, BF VOR/DME.	Rapps, BF FIX .	3000
Rapps, BF FIX .	Stiff, BF FIX	8000
Stiff, BF FIX	Elder, FL FIX ...	8000
Elder, FL FIX	Adoor, FL FIX ..	2500
Bahama Route 66V		
Virginia Key, FL VOR/DME.	Janus, FL FIX ..	2000
Janus, FL FIX ...	Padus, BF FIX .	4000
Padus, BF FIX ..	Freeport, BF VOR/DME.	2000
Bahama Route 68V		
Fort Lauderdale, FL VOR/DME.	Mrlin, FL FIX	6000
Mrlin, FL FIX	Munro, BF FIX .	5000
Munro, BF FIX ..	Freeport, BF VOR/DME.	2000
Bahama Route 69V is Amended by Adding		
Freeport, BF VOR/DME.	Mayko, BF FIX .	3000
Mayko, BF FIX .	Bahma, BF FIX	3000
Bahma, BF FIX	Bimini, BF VORTAC.	3000
Is Amended to Read in Part		
Palm Beach, FL VORTAC.	Walik, FL Fix	2000
Berth, BF FIX ...	Jolts, BF FIX	4000
Walik, FL FIX ...	Berth, BF FIX ...	4000
Berth, BF FIX ...	Jolts, BF FIX	4000
Jolts, BF FIX	Benzi, BF FIX ..	4000
Benzi, BF FIX ...	Freeport, BF VOR/DME.	3000
Bahama Route 70V is Added to Read		
Fort Lauderdale, FL VOR/DME.	Turbo, FL FIX ..	2000
Turbo, FL FIX ...	Padus, BF FIX .	7000
Padus, BF FIX ..	Freeport, BF VOR/DME.	2000
Atlantic Route AR 1 is Amended to Read in Part		
Virginia Key, FL VOR/DME.	Lonni, FL FIX ...	5000
Lonni, FL FIX ...	Heatt, FL FIX ...	5000
Heatt, FL FIX	Blufi, FL FIX	5000
Blufi, FL FIX	Tarpo, FL FIX ..	14000
Tarpo, FL FIX ...	Rsnik, FL FIX ...	24000
Rsnik, FL FIX ...	Hobee, FL FIX .	24000
Atlantic Route AR 7		
Bimini, BF NDB	Vally, FL FIX	2000
Vally, FL FIX	Zappa, BF FIX .	2000
Zappa, BF FIX ..	Benzi, BF FIX ..	3000
Benzi, BF FIX ...	Permt, FL FIX ..	6000
Permt, FL FIX ...	Adoor, FL FIX ..	25000
Atlantic Route AR 10		
Fort Lauderdale, FL VOR/DME.	Turbo, FL FIX ..	2000
Turbo, FL FIX ...	Zappa, BF FIX .	6000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—AMENDMENT 388 EFFECTIVE DATE, MARCH 30, 1995—Continued

From	To	MEA
Atlantic Route AR 11 is Amended by Adding		
Virginia Key, FL VOR/DME.	Janus, FL FIX ..	2000
Janus, FL FIX ...	Vally, FL FIX	5000
Is Amended to Delete		
Miami, FL VORTAC. *2000–MOCA	Kupec, BF FIX .	*5000
Atlantic Route A301 is Amended to Read in Part		
Bimini, BF NDB	Bkene, FL FIX ..	2000
Bkene, FL FIX ..	Fowee, FL FIX .	3000
Fowee, FL FIX .	Zolla, OA FIX ...	3000
Zolla, OA FIX ...	Ursus, OA FIX .	3000
Atlantic Route A509		
Cook, FL NDB ..	Ellee, BF FIX ...	3000
Ellee, BF FIX	Ursus, BF	3000
Atlantic Route A699		
Palm Beach, FL Vortac.	Permt, FL FIX ..	6000
Permt, FL FIX ...	Stiff, BF FIX	8000
Stiff, BF FIX	Nucar, BF FIX ..	8000
§ 95.6003 VOR Federal Airway 3 is Amended to Read in Part		
Key West, FL VORTAC. *14100–MCA BIPIN FIX, WBND	*Bipin, FL FIX ..	15000
Bipin, FL FIX *1400–MOCA	Mnate, FL FIX ..	*5000
Mnate, FL FIX .. *2800–MOCA	Miami, FL VORTAC.	*5000
Miami, FL VORTAC. *2000–MOCA	Fort Lauderdale, FL VOR/DME.	*4000
§ 95.6007 VOR Federal Airway 7 is Amended to Read in Part		
Lee County, FL VORTAC.	Jocks, FL FIX ...	2500
Jocks, FL FIX ... *5000–MRA **1500–MOCA	*Hulla, FL FIX ..	**2000
Hulla, FL FIX	Lakeland, FL VORTAC.	2000
§ 95.6051 VOR Federal Airway 51 is Amended to Delete		
Miami, FL VORTAC.	Pahokee, FL VORTAC.	2000
§ 95.6097 VOR Federal Airway 97 is Amended to Read in Part		
Miami, FL VORTAC. *1300–MOCA	Hamme, FL FIX	*2000
Hamme, FL FIX *1400–MOCA	Winco, FL FIX ..	*3000
Winco, FL FIX ..	La Belle, FL VORTAC,.	*3000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—AMENDMENT 388 EFFECTIVE DATE, MARCH 30, 1995—Continued

From	To	MEA
*1400–MOCA		
§ 95.6157 VOR Federal Airway 157 is Amended to Readd in Part		
Miami, FL VORTAC. *1300—MOCA	Thndr, FL FIX ..	*3000
Thndr, FL FIX ... *1600—MOCA	La Belle, FL VORTAC.	*3000
§ 95.6159 VOR Federal Airway 159 is Amended by Adding		
Virginia Key, FL VOR/DME.	Nitny, FL FIX	2000
Is Amended to Read in Part		
Nitny, FL FIX	Vero Beach, FL VORTAC.	2500
Vero Beach, FL VORTAC.	Orlando, FL VORTAC.	2000
Is Amended to Delete		
Fort Lauderdale, FL VOR/DME.	Nitny, FL FIX	2000
§ 95.6267 VOR Federal Airway 267 is Amended by Adding		
Miami, FL VORTAC. *1400—MOCA	Pahokee, FL VORTAC.	*2000
§ 95.6295 VOR Federal Airway 295 is Amended by Adding		
Virginia Key, FL VOR/DME. *1800—MOCA	Stoop, FL FIX ..	*5000
§ 95.6308 VOR Federal Airway 308 is Amended to Delete		
Quinhagak/ DCMSND VOR/DME. *1400—MOCA	Bethel, AK VORTAC.	*2000
§ 95.6328 VOR Federal Airway 328 is Amended to Read in Part		
Kipnuk, AK VOR/DME.	Quinh, AK FIX ..	2000
Quinh, AK FIX .. *5000—MOCA	Warrt, AK FIX ..	*15000
Warrt, AK FIX ...	Perci, AK FIX ...	5000
§ 95.6437 VOR Federal Airway 437 is Amended by Adding		
Miami, FL VORTAC. *1400—MOCA	Pahokee, FL VORTAC.	*2000
§ 95.6471 VOR Federal Airway 471 is Amended to Read in Part		
Bangor, ME VORTAC.	Millinocket, ME VORTAC.	2400

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—AMENDMENT 388 EFFECTIVE DATE, MARCH 30, 1995—Continued

From	To	MEA
§ 95.6509 VOR Federal Airway 509 is Amended to Read in Part		
St Petersburg, FL VORTAC.	*Hulla, FL FIX ..	**5000
*5000—MRA		
**2500—MOCA		
Hulla, FL FIX	Hallr, FL FIX	*6000
*1600—MOCA		
§ 95.6511 VOR Federal Airway 511 is Amended by Adding		
Thndr, FL FIX ...	Miami, FL VORTAC.	*3000
*1300—MOCA		
Is Amended to Read in Part		
Lakeland, FL VORTAC.	Hallr, FL FIX	*4000
*1800—MOCA		
Hallr, FL FIX	Thndr, FL FIX ..	*5000
*1600—MOCA		
§ 95.6521 VOR Federal Airway 521 is Amended to Read in Part		
Miami, FL VORTAC.	Hamme, FL FIX	*2000
*1300—MOCA		
Hamme, FL FIX	Winco, FL FIX ..	*3000
*1400—MOCA		
Winco, FL FIX ..	Lee County, FL VORTAC.	*3000
*1500—MOCA		
§ 95.6599 VOR Federal Airway 599 is Added to Read		
Miami, FL VORTAC.	Thndr, FL FIX ..	*3000
*1300—MOCA		
Thndr, FL FIX ...	Lee County, FL VORTAC.	*3000
*1500—MOCA		
§ 95.7020 Jet Route No. 20 is Amended to Read in Part		
Orlando, FL VORTAC.	Virginia Key, FL VOR/DME.	18000
45000		
§ 95.7043 Jet Route No. 43 is Amended to Read in Part		
Miami, FL VORTAC.	La Belle, FL VORTAC.	18000
45000		
§ 95.7045 Jet Route No. 45 is Amended to Read in Part		
Virginia Key, FL VOR/DME.	Vero Beach, FL VORTAC.	18000
45000		
§ 95.7053 Jet Route No. 53 is Amended by Adding		
Miami, FL VORTAC.	Pahokee, FL VORTAC.	18000
45000		
Pahokee, FL VORTAC.	Orlando, FL VORTAC.	18000
45000		
§ 95.7055 Jet Route No. 55 is Amended to Read in Part		
Miami, FL VORTAC.	Craig, FL VORTAC.	18000
45000		
§ 95.7073 Jet Route No. 73 is Amended to Read in Part		
Miami, FL VORTAC.	La Belle, FL VORTAC.	18000
45000		
§ 95.7081 Jet Route No. 81 is Added to Read		
Miami, FL VORTAC.	Pahokee, FL VORTAC.	18000
45000		
Pahokee, FL VORTAC.	Orlando, FL VORTAC.	18000
45000		
Orlando, FL VORTAC.	Cecil, FL VOR ..	18000
45000		
Cecil, FL VOR ..	Noway, GA Fix .	18000
45000		
Noway, GA Fix .	Colliers, SC VORTAC.	18000
4500		
§ 95.7113 Jet Route No. 113 is Added to Read		
Virginia Key, FL VOR/DME.	Craig, FL VORTAC.	18000
45000		

§ 95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

Airway segment		Changeover points	
From	To	Distance	From
V–97 is Amended by Adding			
Miami, FL VORTAC	La Belle, FL VORTAC	35	Miami.
V–159 is Amended to Delete			
Vero Beach, FL VORTAC	Orlando, FL VORTAC	32	Vero Beach.
Green Federal Airway 10 is Amended by Adding			
Port Heiden, AK NDB/DME	Woody Island, AK NDB	90	Port Heiden.

[FR Doc. 95–5871 Filed 3–9–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[IN–120, Amendment Number 94–6]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Indiana regulatory program (hereinafter referred to as the ''Indiana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposed revisions to the Indiana Surface Mining rules pertaining to the procedures for the application and renewal or blaster certification. The amendment is

intended to revise language which was inadvertently repealed.

EFFECTIVE DATE: March 10, 1995.

FOR FURTHER INFORMATION CONTACT: Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, Room 301, Indianapolis, Indiana 46202. Telephone: (317) 226–6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background Information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 29, 1982, **Federal Register** (47 FR 32071). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Proposed Amendment

By letter dated December 7, 1994 (Administrative Record No. IND–1416), Indiana submitted a proposed amendment to its program pursuant to SMCRA to revise language that was inadvertently repealed and pertains to the procedures for the application and renewal of blaster certification. Indiana proposed to revise 310 IAC 12–8–4.1 Application for Certification and 310 IAC 12–8–8.1 Renewal.

OSM announced receipt of the proposed amendment in the December 30, 1994, **Federal Register** (59 FR 67691), and in the same document, opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on January 30, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

310 IAC 12–8–4.1 Application for Certification. This new section is added to provide the following. Section 4.1(a)–(c) require that an application for certification as a certified blaster be submitted to the Department of Natural Resources (Department) in writing on forms furnished by the Department and completed in accordance with the instructions. Section 4.1(d) states that an application is incomplete if the form does not contain all required information or contains incorrect information. The applicant will be notified on any deficiencies and if the required information is not provided within 30 days of the notice, the application will be terminated. Section 4.1(e) provides for the verification by the Department of the information on the application. Section 4.1(f) states that if an application has been terminated, the person will not be considered for certification. A new application may be submitted at any time by complying with subsections (b) and (c) of this section.

There are no direct Federal counterparts. However, the Federal regulations at 30 CFR 850.15(a) pertaining to the certification of blasters require that the regulatory authority certify for a fixed period those candidates qualified to accept the responsibility for blasting operations. The Director finds that the proposed regulations at 310 IAC 12–8–4.1 are consistent with the Federal regulations at 30 CFR 850.15(a).

310 IAC 12–8–8.1 Renewal. Section 8.1(a) requires that a certified blaster renew his/her certification every three years. A request for renewal of certification must be in writing on a form furnished by the Department. The request must be received by the Department not later than 30 days prior to the expiration of the certificate. Section 8.1(b) specifies that the renewal will be approved if the certified blaster has worked at least 12 months of the preceding 36 months as a certified blaster and is not in violation of the provisions of 310 IAC 12–8–9 (Suspension or Revocation of Certification). Section 8.1(c) states that when a certification is not renewed for more than one year after expiration, the certification will not be renewable. If certification is sought, the person must submit an application and will be considered a new applicant. Sections 8.1 (d) and (e) state that a renewal notice will be sent to each registrant to the last address given by the registrant not less than two months prior to the expiration date of the certification. Failure to receive a renewal notice does not relieve the certified blaster of the obligation to obtain a renewal of the certification as required.

The Federal regulations at 30 CFR 850.15(c) pertaining to recertification permit the regulatory authority to require the periodic re-examination, training, or other demonstration of continued blaster competency. As described above, Indiana requires a periodic demonstration of continued blaster competency when a blaster must triennially demonstrate that he/she has worked as a certified blaster for at least 12 out of the last 36 months and is not in violation of 310 IAC 12–8–9, which section lists prohibited activities that are causes for the suspension/revocation of a blaster's certification. Therefore, the Director finds that the proposed regulations at 310 IAC 12–8–8.1 are no less effective than the Federal regulations at 30 CFR 850.15(c).

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Indiana program. The U.S. Department of the Interior, Bureau of Mines, concurred without comment.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

V. Director's Decision

Based on the above finding(s), the Director approves the proposed amendment as submitted by Indiana on December 7, 1994.

The Federal regulations at 30 CFR part 914, codifying decisions concerning the Indiana program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of

State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 3, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended by adding paragraph (fff) to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(fff) The following amendment (Program Amendment Number 94–6) submitted to OSM on December 7, 1994, is approved effective March 10, 1995. 310 IAC 12–8–4.1 concerning application for blaster certification and 310 IAC 12–8–8.1 concerning renewal of blaster certification.

[FR Doc. 95–5920 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 936

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule, approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Oklahoma regulatory program (hereinafter referred to as the ''Oklahoma program'') under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*). (SMCRA). The proposed amendment consists of revisions to Oklahoma's coal mining rules concerning its Small Operator Assistance Program (SOAP). The amendment revises the Oklahoma program to be consistent with SMCRA and the corresponding Federal regulation.

EFFECTIVE DATE: March 10, 1995.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program

On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program. General background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program can be found in the January 19, 1981, **Federal Register** (46 FR 4902). Subsequent actions concerning Oklahoma's program and program amendments can be found at 30 CFR 936.15, 936.16, and 936.30.

II. Submission of Amendment

By letter dated September 14, 1994, Oklahoma submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. OK–964). Oklahoma submitted the proposed amendment at its own initiative with the intent of revising the Oklahoma program to be consistent with the corresponding Federal regulations.

Oklahoma proposed to revise its SOAP rules at Oklahoma Administrative Code (OAC) sections 460:20–35–3, eligibility for assistance; 460:20–35–6, program services and data requirements; and 460:20–35–7, applicant liability. Here and herein after, OSM refers to these revised rules by their new codified numbers because Oklahoma proposed in a different amendment recodification of its coal mining rules in accordance with the standards set forth by the Oklahoma State Legislature and the Office of Administrative Code (See proposed rule **Federal Register** notice, 59 FR 49223, September 27, 1994).

OSM announced receipt of the proposed amendment in the September 27, 1994 **Federal Register** (59 FR 49225), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. OK–964.03). Because no one requested a public hearing or meeting, none was held. The public comment period ended on October 27, 1994.

During its review of the amendment, OSM identified concerns relating to the provisions of Oklahoma's rules at OAC 460:20–35–3(a)(2), percentage of ownership and control of the SOAP

applicant; OAC 460:20–35–6 (a) and (b), extension of SOAP funding to other program services and requirements for collection of specific kinds of data; and OAC 460:20–35–7, liability periods. OSM notified Oklahoma of the concerns by letter dated November 22, 1994 (administrative record No. OK–964.09).

Oklahoma responded in a letter dated December 20, 1994, by submitting additional explanatory information and revisions to these rules (administrative record No. OK–964.11). In addition, Oklahoma proposed revisions to OAC 460:20–35–1, definitions.

Based upon the revisions to and additional explanatory information for the proposed program amendment submitted by Oklahoma, OSM reopened the public comment period in the December 30, 1994, **Federal Register** (59 FR 67693, administrative record No. OK–964.12). The public comment period ended on January 17, 1995.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Oklahoma on September 14, 1994, and as revised by it on December 20, 1994, is no less effective than the corresponding Federal regulations. Accordingly, the Director approves the proposed amendment.

1. Nonsubstantive Revisions to Oklahoma's Rules

Oklahoma proposed revisions to the following previously-approved rules that are nonsubstantive in nature (the corresponding Federal regulation provisions are listed in parentheses):

OAC 460:20–35–3 (a)(2)(D) and (b), (30 CFR 795.6 (a)(2)(iv) and (b)), eligibility for assistance;
OAC 460:20–35–6(d), (30 CFR 795.9(d)), program services and data requirements; and
OAC 460:20–35–7(a), (30 CFR 795.12(a)), applicant liability.

Because Oklahoma's proposed revisions of these previously-approved rules are nonsubstantive in nature, the Director finds that the proposed rules are no less effective than the Federal regulations and is approving them.

2. Substantive Revisions to Oklahoma's Rules That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

Oklahoma proposed revisions to the following rules that are substantive in nature and contain language that is substantively identical to the requirements of the corresponding Federal regulation provisions (listed in parentheses).

OAC 460:20–35–1, (30 CFR 795.3), definitions;
OAC 460:20–35–3(a)(2), (a)(2) (A), and (B), (30 CFR 765.6(a)(2), (i) and (ii)), eligibility for assistance;
OAC 460:20–35–6 (a) and (b) (1) through (6), (30 CFR 795.9 (a) and (b) (1) through (6)), program services and data requirements; and
OAC 460:20–35–7(a) (2) and (3), (30 CFR 795.12(a) (2) and (3)), applicant liability.

Because the proposed revisions to these Oklahoma rules are substantively identical to the corresponding provisions of the Federal regulations, the Director finds that they are no less effective than the Federal regulations. The Director approves these proposed rules.

IV. Summary and Disposition of Comments

Following are summaries of all written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Oklahoma program (administrative record No. OK–964.02).

The Bureau of Mines responded in a letter dated September 27, 1994, that it had no comment on Oklahoma's proposed revisions (administrative record No. OK–964.04).

The U.S. Army Corps of Engineers stated in a letter dated September 30, 1994, that it found the changes to be satisfactory (administrative record No. OK–964.05).

The Bureau of Land Management responded in a letter dated October 12, 1994, that the modification to Oklahoma's SOAP provisions seemed appropriate (administrative record No. OK–964.06).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Oklahoma proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. OK–964.02). It responded on October 13, 1994, that it had no objections to the approval of Oklahoma's proposed regulations (administrative record No. OK–964.07).

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and the ACHP (administrative record No. OK–964.02). Neither the SHPO nor the ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves Oklahoma's proposed amendment as submitted on September 14, 1994, and as revised on December 20, 1994.

The Director approves, as discussed in: Finding No. 1, OAC 460:20–35–3 (a)(2)(D) and (b), eligibility for assistance, OAC 460:20–35–6(d), program services and data requirements, and OAC 460:20–35–7(a), applicant liability; and finding No. 2, OAC 460:20–35–1, definitions, OAC 460:20–35–3(a)(2) (A) and (B), eligibility for assistance, OAC 460:20–35–6 (a) and (b) (1) through (6), program services and data requirements, and OAC 460:20–35–7(a) (2) and (3), applicant liability.

The Director approves the rules as proposed by Oklahoma with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 936, codifying decisions concerning the Oklahoma program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12886 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

VII. List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 3, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 936—OKLAHOMA

1. The authority citation for part 936 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 936.15 is amended by adding paragraph (o) to read as follows:

§ 936.15 Approval of regulatory program amendments.

* * * * *

(o) Revisions to the following provisions of the Oklahoma Coal Rules and Regulations concerning the small operator assistance program, as submitted to OSM on September 14, 1994, and as revised on December 20, 1994, are approved effective March 10, 1995:

Oklahoma Administrative Code (OAC) 460:20–35–1, definitions;
OAC 460:20–35–3 (a)(2), (a)(2) (A), (B), and (D), and (b), eligibility for assistance;
OAC 460:20–35–6 (a), (b) (1) through (6), and (d), program services and data requirements; and
OAC 460:20–35–7 (a), (a) (2) and (3), applicant liability.

[FR Doc. 95–5921 Filed 3–9–95; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL 12–36–6669; FRL–5167–9]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On June 29, 1990, the United States Environmental Protection Agency (USEPA) promulgated a Federal Implementation Plan (FIP) which contains stationary source volatile organic compound (VOC) control measures representing reasonably available control technology (RACT) for emission sources located in six northeastern Illinois (Chicago area) counties: Cook, DuPage, Kane, Lake, McHenry and Will. Included in USEPA's rules was a requirement that major non-Control Technique Guideline (CTG) sources be subject to 40 CFR 52.741 (s), (u), (v), (w), or (x). The major non-CTG limits in 40 CFR 52.741(x) (would, if not for this rule) apply to the hot and cold aluminum rolling operations at the Reynolds Metals Company's (Reynolds) McCook Sheet & Plate Plant in McCook, Illinois (in Cook County). On August 19, 1991, Reynolds requested that USEPA reconsider the application of 40 CFR 52.741(x) to its facility in McCook, Illinois, and on October 17, 1991, Reynolds requested that USEPA promulgate site-specific RACT limits for its hot and cold rolling mills. USEPA agreed to reconsider the RACT control requirements for Reynolds' aluminum rolling operations and, on September 22, 1993, proposed site-specific RACT control requirements for these operations. In this rule the USEPA is promulgating these site-specific RACT limits.

EFFECTIVE DATE: This rule is effective April 10, 1995.

ADDRESSES: The docket for this action (Docket No. A–92–67), which contains the public comments, is located for public inspection and copying at the following addresses. A reasonable fee may be charged for copying. We recommend that you contact Randolph O. Cano before visiting the Chicago location and Rachel Romine (202/245–3639) before visiting the Washington, D.C. location.

U.S. Environmental Protection Agency, Region 5, Regulation Development Branch, 18th Floor, Southwest, 77 West Jackson Blvd., Chicago, Illinois 60604.

Office of Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, Docket No. A–92–67, Room M1500, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Regulation Development Branch, USEPA Region 5, (312) 886–6052, at the Chicago address indicated above.

SUPPLEMENTARY INFORMATION:

I. Background

Part D of the Clean Air Act (Act), 42 U.S.C. 7401 et seq., requires that states adopt rules for major non-CTG [1] sources.

[1] Control techniques guideline documents have been prepared by USEPA to assist States in defining RACT for the control of VOC emissions from

This requirement is discussed in the April 4, 1979, General Preamble for Proposed Rulemaking (44 FR 20372). On July 21, 1988, Illinois submitted a rule which covered major (100 tons per year or more) non-CTG VOC sources. This rule was disapproved by USEPA on June 29, 1990 (55 FR 26814), primarily because its applicability provisions were inconsistent with USEPA requirements. Among other defects, Illinois' non-CTG rule did not regulate the rolling operations at Reynolds' McCook facility.

On April 1, 1987, the State of Wisconsin filed a complaint in the United States District Court for the Eastern District of Wisconsin against USEPA and sought a judgment that USEPA, among other requested actions, be required to promulgate revisions to the Illinois ozone SIP for northeastern Illinois. *Wisconsin* v. *Reilly,* No. 87–C–0395, E.D. Wis.

On May 25, 1988, USEPA released a guidance document titled ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations'' (the ''Blue Book''). The purpose of this VOC guidance document was to identify deficiencies which must be removed from existing State Implementation Plans (SIP) and disapproved in any proposed SIPs. This document specifies USEPA's non-CTG RACT requirements.

On January 18, 1989, the District Court in *Wisconsin* v. *Reilly* ordered that USEPA promulgate an ozone implementation plan for northeastern Illinois within 14 months of the date of that order. On September 22, 1989, USEPA and the States of Illinois and Wisconsin signed a settlement agreement in an attempt to substitute a more acceptable schedule for promulgation of a plan for the control of ozone in the Chicago area. On November 6, 1989, the District Court vacated its prior order and ordered all further proceedings stayed, pending the performance of the settlement agreement.

The settlement agreement called for the use of a more sophisticated air quality model, allowed more time for USEPA to promulgate a FIP using the model,[2] and requires interim emission reductions while the modeling study is being performed. The interim emission reductions consist of Federal promulgation of required VOM[3] RACT rules for Illinois to remedy deficiencies in its State regulations.

On December 27, 1989, USEPA proposed major non-CTG rules consistent with its May 25, 1988, VOC guidance (54 FR 53080). The non-CTG rules proposed for promulgation by USEPA covered Reynolds' aluminum rolling operations. On June 29, 1990, USEPA took final action to promulgate major non-CTG rules. 55 FR 26814.

On August 29, 1990, Reynolds filed a petition for review of USEPA's June 29, 1990, rulemaking in the United States Court of Appeals for the Seventh Circuit. Nine other parties filed petitions for review, which were ultimately consolidated by the Court as *Illinois Environmental Regulatory Group (''IERG'') et al.* v. *Reilly,* No. 90–2778.

On August 19, 1991, Reynolds requested that USEPA reconsider the FIP rule as it applies to its aluminum rolling operations and on October 17, 1991, Reynolds requested the adoption of site-specific RACT limits for its hot and cold rolling mills. On November 20, 1991, USEPA announced its intention to reconsider its non-CTG rules as they apply to Reynolds, and issued a three-month stay of the applicable rule pending reconsideration, pursuant to section 307(d)(7)(B) of the Act, 42 U.S.C. 7607(d)(7)(B). 56 FR 58501. In addition, on November 20, 1991, USEPA proposed to extend the three-month stay, but only as long as necessary to complete reconsideration. 56 FR 58528. On June 23, 1992, USEPA extended the stay beyond the 3-month period, for as long as necessary to complete reconsideration of its non-CTG rules for Reynolds' aluminum rolling operations. 57 FR 27935.

As a result of USEPA's decision to reconsider the Federal rules as applied to Reynolds, USEPA reviewed information regarding Reynolds' rolling operations and, on September 22, 1993 (58 FR 49254), proposed to promulgate site-specific RACT control requirements for Reynolds' aluminum rolling operations. On October 20, 1993, Reynolds submitted comments in response to the proposed rule.

II. Discussion of Reynolds' Comments

Reynolds stated in its comments on the proposal that it supports USEPA's promulgation of the site-specific RACT control requirements for its aluminum rolling operations. However, it requested ''the following minor changes to the proposed rule to better reflect our current operations.'' These comments were clarified in a July 20, 1994, discussion with the author of Reynolds' comments. Reynolds' comments and USEPA's analysis of these comments follow.

A. Reynolds stated that the preamble should be made consistent with the regulatory language regarding lubricant cooling requirements. Reynolds requested that the part of the preamble titled ''RACT Demonstration for Cold Rolling Operations'' be modified by stating that ''* * * RACT should reasonably require that sump oil temperatures be maintained at 150 degrees F or less.'' instead of ''* * * RACT should reasonably require that sump oil temperatures be maintained at 150 degrees F.'' USEPA agrees with the point of Reynolds' comment and clearly intended for 150 degrees F to be a maximum temperature because VOC emissions are reduced at lower temperatures. The regulation that USEPA is promulgating for Reynolds is consistent with a maximum temperature requirement of 150 degrees F.

B. In its notice of proposed rulemaking (NPR), USEPA specified the use of ''severely hydrotreated mineral seal oil'' (a lubricant) for Reynolds' cold rolling mills. USEPA further specified that the initial and final boiling points of the lubricant must be between 460 degrees F and 635 degrees F, as determined by a distillation range test using ASTM method D86–90.

Reynolds requested that it be allowed some flexibility in the specification of the cold rolling lubricant type that is allowed in case improved lubricants become available. More specifically, it requested the ability to use a low vapor pressure (as determined by the distillation range test discussed above) organic lubricant and not be limited to the use of ''severely hydrotreated mineral seal oil.'' Reynolds' request is reasonable because the lubricant emissions are a function of the initial boiling point and it has not requested that the initial boiling point of 460 degrees F be changed. This lubricant RACT control requirement is, therefore, revised in this final rule, consistent with Reynolds' request.

C. The proposed rule limits the inlet sump rolling lubricant temperature to 150 degrees F for Reynolds' cold rolling

existing stationary sources. Each individual CTG recommends a presumptive norm of control considered reasonably available to a specific source category.

[2] USEPA is no longer required to promulgate a FIP using the modeling results because the settlement agreement relieves USEPA of such responsibility in the event that amendments to the Act establish new deadlines for States to achieve attainment of the ozone standard. The primary responsibility for developing any remaining revisions to Illinois' SIP belongs to Illinois because the Clean Air Act Amendments of 1990 establish such new deadlines.

[3] The State of Illinois uses the term ''VOM'' in its regulations. For the purposes of this RACT analysis, this term is considered equivalent to USEPA's term ''VOC.''

mills and 200 degrees F for its hot rolling mills. In its comments Reynolds states that, in some cases, the lubricant is heated or cooled after the sump but prior to the lubricant nozzles. Thus, measuring temperature in the inlet sump may not always be representative.

USEPA agrees with Reynolds that the temperature of the inlet lubricant supply measured after the inlet sump would be more reflective of the as-applied lubricant temperature and, therefore, the final rule allows temperature measurement after the inlet sump.

D. The proposed rule requires chart recorders for coolant temperature monitoring and coolant temperature recording charts to satisfy recordkeeping requirements. Although Reynolds has installed chart recorders, it would like the option of moving to an electronic data system in the future. USEPA agrees that the use of electronic temperature recorders is an acceptable alternative, and could greatly facilitate data review. Therefore, the final rule allows use of electronic data recorders.

III. Specific RACT Control Requirements and Test Methods

A. Cold Rolling Mills

RACT for the aluminum sheet cold rolling mills Nos. 1 and 7 at the McCook Sheet & Plate plant is the use of a low vapor pressure (as determined by distillation range testing) organic lubricant and a maximum inlet supply rolling lubricant temperature of 150°F. Compliance shall be demonstrated by a monthly distillation range analysis of a grab rolling lubricant sample from each operating mill and daily rolling lubricant temperature readings in the inlet supply feeding each mill.

All incoming shipments of lubricant for the Nos. 1 and 7 cold mills must be sampled and each sample must undergo a distillation range test using ASTM method D86–90, ''Standard Test Method for Distillation of Petroleum Products.'' The initial and final boiling points of the lubricant must be between 460°F and 635°F. Also, for the cold mills, samples of the as-applied lubricants must be taken on a monthly basis to verify, using ASTM method D86–90, that the boiling points are between 460°F and 635°F.

B. Hot Rolling Mills

RACT for the aluminum sheet and plate hot rolling mills, 120 inch, 96 inch, 80 inch and 145 inch mills, at the McCook Sheet & Plate plant is the use of an oil/water emulsion (rolling lubricant) not to exceed 15% by weight of petroleum-based oil and additives and a maximum inlet supply rolling lubricant temperature of 200°F. Compliance shall be demonstrated by a monthly analysis of a grab rolling lubricant sample from each operating mill and daily temperature readings in the inlet supply feeding each mill.

The lubricants at each hot mill must be sampled and tested, for the percentage of oil and water, on a monthly basis. ASTM Method D95–83 (Reapproved 1990), ''Standard Test Method For Water in Petroleum Products and Bituminous Materials by Distillation'', shall be used to determine the percent by weight of petroleum-based oil and additives.

C. Coolant Temperature Monitoring

Coolant temperatures shall be monitored at all of the rolling mills by use of thermocouple probes and chart recorders or electronic data recorders. The probes sense the coolant temperatures at the supply side to the mills.

D. Recordkeeping

All distillation test results for cold mill lubricants, all percent oil test results for hot mill lubricants, all coolant temperature recording charts and/or temperature data obtained from electronic data recorders, and all oil/water emulsion formulation records shall be kept on file, and be available for inspection by USEPA, for three years.

IV. Compliance Date

A compliance date of four months from promulgation is required so that Reynolds has adequate time to comply with revised recordkeeping requirements.

V. Summary and Conclusions

This rule establishes site-specific RACT requirements, revised recordkeeping requirements, and revised test methods for Reynold's aluminum rolling mills. These requirements are consistent with USEPA's notice of proposed rulemaking as modified by Reynolds' comments. The use of lower VOC emitting lubricants and lubricant temperature control has been previously approved by USEPA as RACT for another aluminum rolling mill (55 FR 33904). Compliance with the revised emission limits and recordkeeping requirements must be achieved four months from USEPA's publication of this rule. Also, as proposed, the USEPA is withdrawing the June 23, 1992, stay.

USEPA is taking this action pursuant to its authority under section 110(k)(6) of the Act to correct through rulemaking any plan or plan revision.[4] The USEPA is interpreting this provision to authorize USEPA to make corrections to a promulgated regulation when it is shown to USEPA's satisfaction that the information made available to USEPA at the time of promulgation is subsequently demonstrated to have been clearly inadequate, and other information persuasively supports a change in the regulation. See 57 FR 6762 at 6763 (November 30, 1992). In this case, the information made available to USEPA during the rulemaking for Reynolds was clearly inadequate for the development of a site-specific RACT determination.[5]

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action involves only one source, Reynolds Metals Company. (Reynolds is not a small entity.) Therefore, USEPA certifies that this RACT promulgation does not have a significant impact on a substantial number of small entities.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 9, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of

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[4] Since USEPA is taking this action pursuant to section 110(k)(6), USEPA believes that section 193 of the Act (the savings clause) is inapplicable. By its terms, section 110(k)(6) does not require any additional submission or evidence. Section 193 requires an assurance of equivalency for any revision. In order to provide for equivalency, the State would need to provide for compensating reductions. USEPA believes that this conflict should be resolved concluding that section 110(k)(6) is not constrained by the savings clause requirement of equivalent reductions. USEPA believes that the state and the sources within the state should not have to bear the burden of additional reductions where USEPA lacked important site-specific information at the time of an initial promulgation. This is particularly true in the case of FIPs, where USEPA takes the lead in developing the regulations and is not merely acting on state-submitted regulations.

[5] As discussed earlier, USEPA was required to promulgate the June 29, 1990 FIP regulations under the tight timeframe ordered by the Court in *Wisconsin* v. *Reilly*.

judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Dated: February 28, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

Section 52.741 is amended by adding a new paragraph (x)(7) and revising paragraph (z)(4) as follows:

§ 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry, and Will Counties.

* * * * *

(x) * * *

(7) The control, recordkeeping, and monitoring requirements in this paragraph apply to the aluminum rolling mills at the Reynolds Metals Company's McCook Sheet & Plate Plant in McCook, Illinois (Cook County) instead of the control requirements and test methods in the other parts of paragraph (x), and the recordkeeping requirements in paragraph (y) of this section. All of the following requirements must be met by Reynolds on and after July 7, 1995.

(i) Only organic lubricants with initial and final boiling points between 460 degrees F and 635 degrees F, as determined by a distillation range test using ASTM method D86–90, are allowed to be used at Reynolds' aluminum sheet cold rolling mills numbers 1 and 7. All incoming shipments of organic lubricant for the number 1 and 7 mills must be sampled and each sample must undergo a distillation range test to determine the initial and final boiling points using ASTM method D86–90. A grab rolling lubricant sample shall be taken from each operating mill on a monthly basis and each sample must undergo a distillation range test, to determine the initial and final boiling points, using ASTM method D86–90.

(ii) An oil/water emulsion, with no more than 15 percent by weight of petroleum-based oil and additives, shall be the only lubricant used at Reynolds' aluminum sheet and plate hot rolling mills, 120 inch, 96 inch, 80 inch, and 145 inch mills. A grab rolling lubricant sample shall be taken from each operating mill on a monthly basis and each sample shall be tested for the percent by weight of petroleum-based oil and additives by ASTM Method D95–83.

(iii) The temperature of the inlet supply of rolling lubricant for aluminum sheet cold rolling mills numbers 1 and 7 shall not exceed 150 °F, as measured at or after (but prior to the lubricant nozzles) the inlet sump. The temperature of the inlet supply of rolling lubricant for the aluminum sheet and plate hot rolling mills, 120 inch, 96 inch, 80 inch, and 145 inch mills shall not exceed 200 °F, as measured at or after (but prior to the lubricant nozzles) the inlet sump. Coolant temperatures shall be monitored at all the rolling mills by use of thermocouple probes and chart recorders or electronic data recorders.

(iv) All distillation test results for cold mill lubricants, all percent oil test results for hot mill lubricants, all coolant temperature recording charts and/or temperature data obtained from electronic data recorders, and all oil/water emulsion formulation records, shall be kept on file, and be available for inspection by USEPA, for three years.

* * * * *

(z) * * *

(4) 40 CFR 52.741(e), only as it applies to Riverside Laboratories Incorporated, is stayed from June 12, 1992, until USEPA completes its reconsideration for Riverside.

* * * * *

[FR Doc. 95–6002 Filed 3–9–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 63

[FRL–5170–1]

Approval of Delegation of Authority; National Emission Standards for Hazardous Air Pollutants; Coke Oven Batteries; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is granting delegation of authority to the State of Utah to implement and enforce the National Emission Standards for Coke Oven Batteries. The Governor of Utah requested delegation from EPA Region VIII in a letter dated August 18, 1994. EPA has reviewed the application and has reached a decision that the State of Utah has satisfied all of the requirements necessary to qualify for approval of delegation. The effect of this action allows the State of Utah to implement and enforce Clean Air Act standards for coke oven batteries.

DATES: This action is effective May 9, 1995 unless adverse comments are received by April 10, 1995. If the effective date is delayed due to comments, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be submitted to Patricia D. Hull, Director, Air, Radiation & Toxics Division, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466 and concurrently to Russell A. Roberts, Director, Division of Air Quality, Department of Environmental Quality, 1950 West North Temple, Salt Lake City, Utah 84114–4820. A docket containing State of Utah's submittal is available for public inspection during normal business hours at the above locations.

FOR FURTHER INFORMATION CONTACT: T. Scott Whitmore at (303) 293–1758.

SUPPLEMENTARY INFORMATION:

Background

The 1990 Amendments to the Clean Air Act provide a congressional mandate to establish emission standards regulating coke oven emissions. Under section 112(d)(8), the EPA must promulgate standards based on specified minimum requirements and work practice regulations. On October 27, 1993, the EPA met this requirement by promulgating in the **Federal Register** (58 FR 57534) the national standards for coke oven emissions. The standard applies to all existing coke oven batteries, including by-product and nonrecovery coke oven batteries, and to all new coke oven batteries constructed on or after December 4, 1992.

On August 18, 1994 the Governor of Utah requested delegation of authority to implement and enforce 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries. Prior to this request, the State of Utah implemented the criteria for delegation as described in 40 CFR 63.91(b), *Criteria common to all approval options.* Criteria for approval to delegate include a written finding by the State Attorney General that the State has the necessary legal authority to implement and

enforce the rule; state statutes, regulations, and other provisions that contain the appropriate authority to implement and enforce the rule, a demonstration of adequate resources, a schedule demonstrating expeditious implementation of the rule, and a plan that assures expeditious compliance by all sources subject to the rule. Utah, concurrently with its request for delegation, submitted documentation demonstrating it meets the criteria necessary for granting approval.

As required by 40 CFR 63.91(a)(2), the EPA is seeking public comments for 30 days. The comments shall be submitted concurrently to the State of Utah and to EPA. The State of Utah can then submit a response to the comments to EPA.

EPA is approving the State of Utah's request for delegation as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to this rule, this **Federal Register** notice will serve as the final notice of the approval to delegate the implementation and enforcement of this program. The effective date will be 60 days from the date of this publication and no further activity will be contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the accompanying proposed rule which appears in the Proposed Rule Section of this **Federal Register**. However, EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Final Action

Through review of the documentation submitted to EPA and knowledge of Utah's implementation activities for these standards, EPA has determined that the State of Utah meets all of the statutory and regulatory requirements established by Section 112 of the Clean Air Act, as amended in 1990, and 40 CFR Part 63 for the implementation and enforcement of the National Emission Standards for Coke Oven Batteries. Therefore, pursuant to Section 112(l) of the Clean Air Act, as amended in 1990, 42 U.S.C. 7412(l), and 40 CFR Part 63, EPA hereby delegates its authority to the State of Utah for the implementation and enforcement of the National Emission Standards for Coke Oven Batteries for all sources located, or to be located in the State of Utah.

Please note that not all authorities for the NESHAP can be delegated to the state. The EPA Administrator retains authority to implement those portions of the national emission standards and their general provisions that require approval of equivalency determinations and alternative test methods, decision-making to ensure national consistency, and EPA rulemaking to implement. Sections not delegable include, but are not limited, to the authorities listed as not delegable in 40 CFR part 63, subpart L, under Delegation of Authority.

As these National Emission Standards for Coke Oven Batteries are updated, Utah should revise its rules and regulations accordingly and in a timely manner.

EPA retains concurrent enforcement authority. If at any time there is a conflict between the state and federal regulations, the federal regulations must be applied if they are more stringent than the state regulations.

Effective May 9, 1995 all notices, reports, and other correspondence required under 40 CFR part 63, subpart L, should be sent to the State of Utah rather than to EPA Region VIII, Denver, Colorado.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Intergovernmental relations.

Authority: 42 U.S.C. 7412.

Dated: February 23, 1995.

Kerrigan Clough,

Acting Regional Administrator, Region VIII.

[FR Doc. 95–5978 Filed 3–9–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[NM002; FRL–5169–6]

Clean Air Act Interim Approval of Operating Permits Program; City of Albuquerque Environmental Health Department, Air Pollution Control Division

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: The EPA published without prior proposal a **Federal Register** (FR) notice promulgating interim approval of the operating permits program submitted by the New Mexico Governor's designee, Mr. Lawrence Rael, for the City of Albuquerque as Chief Administrative Officer, and for Bernalillo County as the administrative head of the Albuquerque/Bernalillo County Operating Permits Program, for the purpose of complying with the Federal requirements of an approved program to issue operating permits to all major stationary sources, and to certain other sources with the exception of Indian Lands. This submittal for the operating permits program was made by the City of Albuquerque on April 4, 1994. EPA's direct final approval was published on January 10, 1995 (60 FR 2527).

The EPA subsequently received comments from the American Forest and Paper Association (AF&PA) on the action. Two comments were received from this commenter: one with respect to the definition of ''Title I modification'' and the other regarding the implementation of section 112(g). A letter from National Environmental Development Association/Clean Air Regulatory Project was received by the EPA approximately two weeks after the close of the public comment period. That letter set out the same comments expressed by the AF&PA, and will be added to the EPA's docket for the approval of the Albuquerque Operating Permits Program although not discussed further in this notice.

With respect to the definition of Title I modification, the AF&PA noted that the Albuquerque definition of ''Title I modification'' does not include changes reviewed under a minor source preconstruction review program (''minor NSR changes''). AF&PA stated its belief that this was consistent with the relatively narrow definition of Title I modification which AF&PA believed is contained in the current Part 70 rules. The AF&PA also noted that EPA has recently proposed changing its current definition of ''Title I modification'' to expressly include virtually any change that constitutes a modification under any provision of Title I of the Act. 59 FR 44572 (August 29, 1994). The AF&PA noted that EPA in prior months had conditioned either interim or full approval of several States' operating permit programs on the adoption of such a definition, which is broader than that contained in the Albuquerque Operating Permits Program. However, the AF&PA noted that EPA was now taking no position on the Albuquerque Operating Permits Program definition of ''Title I modification'' as grounds for either interim approval or disapproval of the program. The AF&PA in its comments stated that it supports this new approach by EPA of not taking a position on Albuquerque's narrower definition.

Because this comment is not adverse to the position taken by EPA in its Direct Final Rule approving the Albuquerque Operating Permits Program, it does not require the withdrawal of the Direct Final Rule

promulgating interim approval of the City's Program.

In its comment involving the implementation of Federal Clean Air Act section 112(g), the AF&PA objected to EPA's proposed approval of Albuquerque's stated intention to use its preconstruction permit process to implement the section 112(g) requirements of its operating permits program prior to the promulgation of a final Federal 112(g) rule. The AF&PA acknowledged that, based on comments submitted by AF&PA and others, the EPA might revise its position that section 112(g) requirements take effect upon approval of a State's Title V program, and instead allow States to defer implementing the modification provisions of section 112(g) until sometime after the final Federal rule is promulgated, an action which AF&PA stated it believes would be appropriate [1].

On February 8, 1995, the Administrator of EPA signed an interpretive notice which was published at 60 FR 83333 (February 14, 1995), delaying the implementation of section 112(g) for both new and existing sources. This delay of implementation of section 112(g) renders AF&PA's comment moot.

Accordingly, the direct final interim approval of the Albuquerque Operating Permits Program will not be withdrawn and will remain final as published January 10, 1995 (60 FR 2527).

EFFECTIVE DATE: Will be effective on March 13, 1995 as published in 60 FR 2527.

FOR FURTHER INFORMATION CONTACT: Ms. Adele D. Cardenas, New Source Review Section (6T-AN), Environmental Protection Agency, Region 6, 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7210.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedures, Intergovernmental relations, Operating permits.

Authority: 42 U.S.C. 7401, *et seq.*

Therefore, the final rule appearing at 60 FR 2527, January 10, 1995, remains as published and will be effective March 13, 1995.

[1] Section 112(g) of the Clean Air Act requires the case-by-case establishment of Maximum Achievable Control Technology standards for any ''modified'' major sources of hazardous air pollutant emissions. The source is ''modified'' whenever a ''physical change or change in the method of operation'' results in a greater than de minimis increase in actual emissions of hazardous air pollutants, unless that increase will be offset by an equal or greater decrease in the quantity of emissions of another hazardous air pollutant (or pollutants) from such source which is deemed more hazardous. 42 U.S.C. § 7412(g)(1)(A).

Dated: March 3, 1995.

Jane N. Saginaw,

Regional Administrator (6A).

[FR Doc. 95–5982 Filed 3–9–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 372

[OPPTS–400082B; FRL–4929–2]

Toxic Chemical Release Reporting; Community Right-to-Know; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: This document corrects seven errors and clarifies one listing in the final rule published in the **Federal Register** of November 30, 1994, in which EPA promulgated the addition of 286 chemicals and chemical categories to section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986. Five of the errors are typographical errors, two for the Chemical Abstracts Service (CAS) registry numbers for isophorone diisocyanate and metribuzin and three for the spelling of the chemical names for acifluorfen, sodium salt, dicamba, and 4-methyldiphenylmethane-3,4-diisocyanate. The sixth correction is to remove the listing for flumetralin, which the Agency has deferred for listing, from the CAS order list in the regulations. The seventh correction is an editing error in the chemical formula for the polychlorinated alkanes category. In addition, EPA is clarifying the listing for the polychlorinated alkanes category. This document corrects these errors and makes the above referenced clarification.

EFFECTIVE DATE: This document is effective March 10, 1995.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Project Manager, 202–260–9592 for specific information on this document. For general information on EPCRA contact the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460, Toll free: 800–535–0202, Toll free TDD: 800–553–7672.

SUPPLEMENTARY INFORMATION:

I. CAS Number Corrections

In the **Federal Register** of November 30, 1994 (59 FR 61432), EPA issued the final rule adding chemicals to the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313 list of toxic chemicals. The Chemical Abstract Service (CAS) number for isophorone diisocyanate was incorrectly published as ''004098–71–0'' in the preamble on: (1) Page 61436, second column of the table, seventh entry, (2) page 61454, second column, eighth line from the bottom, and (3) in the regulatory text, § 372.65(c), on page 61484, 11th entry under the diisocyanates category. The correct CAS number for isophorone diisocyanate is ''004098–71–9''. In addition, the CAS number for metribuzin was incorrectly published in the preamble as ''021087–64–5'' on page 61437, second column of the table, 26th entry, and in the regulatory text, § 372.65(a), as ''21087–64–5'' on page 61477, second column of the table, ninth entry, and page 61483, first column of the table, 26th entry. The correct CAS number is ''21087–64–9''.

The chemical name for acifluorfen, sodium salt was spelled incorrectly in the preamble as ''[5-(2-Chloro-4-(triflouromethyl)phenoxy)-2-nitrobenzoic acid, sodium salt]'' on: (1) Page 61434, first column of the table, third entry, and (2) in the regulatory text, § 372.65(a), page 61473, first column of the table, third entry, and § 372.65(b), page 61484, second column of the table, 12th entry. The correct spelling is ''acifluorfen, sodium salt [5-(2-Chloro-4-(trifluoromethyl)phenoxy)-2-nitrobenzoic acid, sodium salt]''.

The chemical name for dicamba was incorrectly spelled in the preamble as ''(3,6-Dichloro-2-methyoxybenzoic acid)'' on: (1) Page 61435, first column of the table, 38th entry, and (2) in the regulatory text, § 372.65(a), page 61475, first column of the table, 12th entry, and § 372.65(b), page 61482, second column of the table, 13th entry. The correct spelling is ''dicamba (3,6-Dichloro-2-methoxybenzoic acid)''.

In the regulatory text, § 372.65(c), page 61484, first column, the 12th entry under the diisocyanates category was incorrectly listed as ''4-methyldiphenylmethane-3,4-diisocyante''. The correct spelling is ''4-methyldiphenylmethane-3,4-diisocyanate''.

II. Chemical Listing Corrections and Clarification

Also in the **Federal Register** of November 30, 1994 (59 FR 61432), the chemical flumetralin was listed in the regulatory text, § 372.65(b), on page 61484. EPA did not finalize the addition of flumetralin in this rulemaking and it should not be listed in the regulations. Therefore, EPA is removing the entry for flumetralin from § 372.65(b). EPA has deferred final action on the listing of flumetralin under EPCRA section 313 until a later date (see 59 FR 61439).

The chemical formula for the polychlorinated alkanes category was shown as ''$C_xH_{2x-y}Cl_y$'' in: (1) The preamble on page 61463, second column, first full paragraph, line seven, and (2) the regulatory text, § 372.65(c), on page 61485, column one of the table, first entry. The correct formula for the polychlorinated alkanes category is ''$C_xH_{2x-y+2}Cl_y$''. EPA is also clarifying the listing for the polychlorinated alkanes category. The listing for this category is changed to ''polychlorinated alkanes (C_{10} to C_{13})''. This clarification is intended to provide more consistency between the name of the category and the chemical formula. All other information pertinent to this category is correct in the final rule.

Dated: February 27, 1995.

Susan B. Hazen

Acting Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 372 is amended as follows:

PART 372—[AMENDED]

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

2. In § 372.65 by revising the entries for acifluorfen, sodium salt [5-(2-Chloro-4-(triflouoromethyl)phenoxy)-2-nitrobenzoic acid, sodium salt], dicamba (3,6-Dichloro-2-methyoxybenzoic acid), and metribuzin in paragraph (a), revising the entries for 1918–00–9, 21087–64–5, and 62476–59–9 and removing the entry for 62924–70–3 in paragraph (b), and revising under the Diisocyanates category, the entries for isophorone diisocyanate and 4-methyldiphenylmethane-3,4-diisocyante, and revising the category entry for polychlorinated alkanes in paragraph (c) to read as follows:

§ 372.65 Chemicals and chemical categories to which the part applies.

(a) * * *

Chemical Name	CAS No.	Effective Date
* * * * * * *		
Acifluorfen, sodium salt [5-(2-Chloro-4-(trifluoromethyl)phenoxy)-2-nitrobenzoic acid, sodium salt]	62476–59–9	1/1/95
* * * * * * *		
Dicamba (3,6-Dichloro-2-methoxybenzoic acid)	1918–00–9	1/1/95
* * * * * * *		
Metribuzin	21087–64–9	1/1/95
* * * * * * *		

(b) * * *

CAS No.	Chemical Name	Effective Date
* * * * * * *		
1918–00–9	Dicamba (3,6-Dichloro-2-methoxybenzoic acid)	1/1/95
* * * * * * *		
21087–64–9	Metribuzin	1/1/95
* * * * * * *		
62476–59–9	Acifluorfen, sodium salt [5-(2-Chloro-4-(trifluoromethyl) phenoxy)-2-nitrobenzoic acid, sodium salt]	1/1/95
* * * * * * *		

(c) * * *

Category Name		Effective Date
* * * * * * *		
Diisocyanates		
* * * * * * *		
004098–71–9	Isophorone diisocyanate	1/1/95
075790–74–0	4-Methyldiphenylmethane-3,4-diisocyanate	1/1/95
* * * * * * *		
Polychlorinated alkanes (C_{10} to C_{13}): Includes those chemicals defined by the following formula: $C_xH_{2x-y+2}Cl_y$ where x= 10 to 13; y= 3 to 12; and where the average chlorine content ranges from 40–70% with the limiting molecular formulas $C_{10}H_{19}Cl_3$ and $C_{13}H_{16}Cl_{12}$.		1/1/95

Category Name	Effective Date
* * * * * * *	

[FR Doc. 95–5984 Filed 3–9–95; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7127]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The modified base (100-year) flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut: New Haven County.	Town of Madison	January 4, 1995, January 11, 1995, *Shoreline Times.*	Mr. Thomas Rylander, First Selectman for the Town of Madison, Eight Campus Drive, Madison, Connecticut 06443.	December 22, 1994.	090079 C

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Orange County	Unincorporated areas ..	January 18, 1995, January 25, 1995, *Orlando Sentinel*.	Ms. Jean Bennett, Orange County Administrator, P.O. Box 1393, Orlando, Florida 32802–1393.	January 11, 1995.	120179 C
Georgia: Cobb County .	Unincorporated areas ..	December 6, 1994, December 13, 1994, *Marietta Daily Journal*.	Mr. William J. Byrne, Chairman of the Board of Commissioners, 100 Cherokee Street, Suite 300, Marietta, Georgia 30090–9680.	November 29, 1994.	130052 F
Georgia: Gwinnett County.	Unincorporated areas ..	January 10, 1995, January 17, 1995, *Gwinnett Post Tribune*.	Mr. Wayne Hill, Chairman of the Gwinnett County Board of Supervisors, 75 Langley Drive, Lawrenceville, Georgia 30245.	April 17, 1995.	130322
Illinois: Unincorporated Areas.	Cook County	September 2, 1994, September 9, 1994, *The Chicago Tribune*.	Mr. Richard J. Phelan, President of the Cook County Board of Commissioners, 118 North Clark Street, Suite 537, Chicago, Illinois 60602.	August 26, 1994.	170054 B
Illinois: McHenry County.	Lake-In-The-Hills (Village).	January 20, 1995, January 27, 1995, *The Northwest Herald*.	Ms. Christine Thornrose, President of the Village of Lake-In-The-Hills, 1115 Crystal Lake Road, Lake-In-The-Hills, Illinois 60102.	April 27, 1995.	170481 C
Indiana: Vigo County	Unincorporated areas ..	December 30, 1994, January 6, 1995, *Tribune-Star*.	Mr. John A. Scott, President of the Vigo County, Board of Commissioners, Vigo County Security Annex, 201 Cherry Street, Terre Haute, Indiana 47807.	April 5, 1995	180263
North Carolina: Gaston County.	City of Gastonia	January 17, 1995, January 24, 1995, *The Gaston Gazette*.	The Honorable James B. Garland, Mayor of the City of Gastonia, P.O. Box 1748, Gastonia, North Carolina 28053–1748.	January 10, 1995.	370100 D
Ohio: Franklin and Delaware Counties.	City of Westerville	January 18, 1995, January 25, 1995, *Westerville News and Public Opinion*.	Mr. David Lindimore, Manager of the City of Westerville, 21 South State Street, Westerville, Ohio 43081.	April 25, 1995.	390179 F
Pennsylvania: Berks County.	Borough of Wyomissing.	December 19, 1994, December 26, 1994, Times-Eagle.	Mr. David Y. Bausher, Manager of the Borough of Wyomissing, 22 Reading Boulevard, Wyomissing, Pennsylvania 19610–2083.	December 12, 1994.	421375 A
South Carolina: Lexington County.	Unincorporated areas ..	December 14, 1994, December 21, 1994, *The State*.	Mr. Bruce Rucker, Chairman of the Lexington County Council, 212 South Lake Drive, Lexington, South Carolina 29072.	December 7, 1994.	450129

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: March 1, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–5972 Filed 3–9–95; 8:45 am]

BILLING CODE 6718–03–P

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (100-year) flood elevations and modified base (100-year) flood elevations are made final for the communities listed below. The base (100-year) flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster

Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Delaware	
Bethany Beach (town), Sussex County (FEMA docket No. 7093)	
Atlantic Ocean:	
At Maplewood Street extended	*15
At intersection of Wiegand Lane and Central Boulevard	*7
Maps available for inspection at the Town Hall, 214 Garfield Parkway, Bethany Beach, Delaware.	
Bethel (town), Sussex County (FEMA docket No. 7093)	
Broad Creek:	
Approximately 1.3 miles downstream of County Road 493 (Bethel Bridge)	*6
Approximately 2,100 feet downstream of County Road (Bethel Bridge)	*6
Maps available for inspection at the Town Hall, Sailors Path, Bethel, Delaware.	
Bridgeville (town), Sussex County (FEMA docket No. 7093)	
Bridgeville Branch:	
Approximately 1,300 feet downstream of Business U.S. Route 13 (Main Street)	*32
Approximately 1,650 feet upstream of North Cannon Street	*38
Maps available for inspection at the Town Hall, 101 North Main Street, Bridgeville, Delaware.	
Dagsboro (town), Sussex County (FEMA docket No. 7093)	
Pepper Creek:	
At confluence of Pepper Creek Fork 1	*8
At confluence of Pepper Creek Fork 3	*15
Pepper Creek Fork No. 1:	
At confluence with Pepper Creek	*8
Approximately 0.4 mile upstream of CONRAIL bridge	*23
Pepper Creek Fork 2:	
Approximately 20 feet upstream of confluence with Pepper Creek	*10
Approximately 0.4 mile upstream of CONRAIL	*31
Pepper Creek Fork 3:	
At confluence with Pepper Creek	*15
Approximately 1,200 feet upstream of County Road 406 (Swamp Road)	*33
Maps available for inspection at the Town Hall, 504 Main Street, Dagsboro, Delaware.	
Dewey Beach (town), Sussex County (FEMA docket No. 7093)	
Atlantic Ocean:	
At Cullen Street (extended)	*15
Approximately 500 feet east of intersection of State Route 1 and Read Avenue	#2
Rehoboth Bay:	
Approximately 800 feet west of intersection of U.S. Route 1 and Dagsworthy Avenue	*8
Maps available for inspection at the Town Hall, 105 Rodney Avenue, Dewey Beach, Delaware.	
Fenwick Island (town), Sussex County (FEMA docket No. 7093)	
Atlantic Ocean:	
At Cannon Street (extended)	*15
Approximately 300 feet west of intersection of Houston Street and State Route 1	*7
Little Assawoman Bay:	
At intersection of Schultz Road and Dagsboro Street	*6
Maps available for inspection at the Town Hall, 800 Coastal Highway, Fenwick Island, Delaware.	
Frankford (town), Sussex County (FEMA docket No. 7093)	
Vines Creek:	
Upstream side of County Road 376 (Main Street)	*30
Upstream corporate limits	*31
Maps available for inspection at the Frankford Town Hall, 5 Main Street, Frankford, Delaware.	
Greenwood (town), Sussex County (FEMA docket No. 7093)	
Cart Branch:	
Approximately 1,700 feet downstream of Governors Avenue	*45
Approximately 650 feet upstream of CONRAIL	*51
Maps available for inspection at the Town Hall, The Plaza, Greenwood, Delaware.	
Henlopen Acres (town), Sussex County (FEMA docket No. 7093)	
Atlantic Ocean:	
At Rolling Road (extended)	*15
At intersection of Rolling Road and Duneway Avenue (east side of Duneway Avenue)	*9
Lewes and Rehoboth Canal:	
Approximately 500 feet northeast of intersection of Tidewaters Road and Rolling Road	*7
Approximately 1,000 feet west of intersection of Tidewaters Road and Zwaanendael Road	*7
Maps available for inspection at the Town Hall, 104 Tidewaters Road, Henlopen Acres, Delaware.	
Laurel (town), Sussex County (FEMA docket No. 7093)	
Broad Creek:	
Approximately 100 feet upstream of Delaware Avenue	*6
Downstream side of Willow Street	*6
Rossakatum Branch:	
At confluence with Broad Creek	*6
Approximately 0.7 mile upstream of Oak Lane Drive	*23
Georgetown Road Branch:	
Approximately 100 feet upstream of confluence with Records Pond	*12

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 1,400 feet upstream of County Road 466 (Delaware Avenue)	*22
Little Creek:	
At confluence with Broad Creek	*6
Approximately 1.0 mile upstream of County Road 492 (West Sixth Street)	*13
Maps available for inspection at the Town Hall, Poplar and Mechanics Streets, Laurel, Delaware.	
Lewes (city), Sussex County (FEMA docket No. 7093)	
Delaware Bay:	
At Roosevelt Inlet	*14
At intersection of Indiana Avenue and Bay Avenue	*10
Maps available for inspection at the City Hall, East Third Street, Lewes, Delaware.	
Milford (city), Sussex County (FEMA docket No. 7093)	
Presbyterian Branch:	
At downstream side of Kings Highway	*11
Approximately 1,350 feet upstream of U.S. Route 113	*21
Mispillion River:	
At downstream side of State Route 1 (Rehoboth Boulevard)	*9
Approximately 0.6 mile downstream of State Route 1 (Rehoboth Boulevard)	*9
Deep Branch:	
At downstream side of Star Route 1	*9
At confluence of Mispillion River	*9
Maps available for inspection at the City Hall, 201 South Walnut Street, Milford, Delaware.	
Millsboro (town), Sussex County (FEMA docket No. 7093)	
Iron Branch:	
At confluence with Whartons Branch	*8
Approximately 0.5 mile upstream of U.S. Route 113	*19
Indian River:	
Approximately 0.8 mile downstream of State Route 24 (Main Street)	*8
Approximately 50 feet downstream of confluence of Bark Pond and Mirey Branch	*10
Betts Pond:	
At confluence with Millsboro Pond	*9
Approximately 750 feet downstream of U.S. Route 13	*15
Maps available for inspection at the Town Hall, 322 Wilson Highway, Millsboro, Delaware.	
Millville (town), Sussex County (FEMA docket No. 7093)	
White Creek:	
Approximately 900 feet upstream of Old Mill Road	*8
Approximately 150 feet upstream of Warren Road	*12
Maps available for inspection at the Millville Service Center, Corner of County Road 347 and Route 26, Millville, Delaware.	
Milton (town), Sussex County (FEMA docket No. 7093)	
Ingram Branch:	
At confluence with Wagamons Pond	*9
Approximately 200 feet downstream of CONRAIL	*9
Round Pole Branch:	
At upstream side of County Road 88 (Atlantic Avenue)	*9
Approximately 700 feet upstream of Cannery Bridge	*20
Maps available for inspection at the Town Hall, 101 Federal Street, Milton, Delaware.	
Ocean View (town), Sussex County (FEMA docket No. 7093)	
Indian River Bay Affecting White Creek:	
Approximately 0.6 mile downstream of confluence of White Creek Ditch	*8
At confluence of White Creek Ditch	*8
Indian River Bay Affecting White Creek Ditch:	
At confluence with White Creek	*8
Approximately 0.4 mile upstream of County Road 84 (Central Avenue)	*8
Maps available for inspection at the Town Hall, 32 Oakwood Avenue, Ocean View, Delaware.	
Rehoboth Beach (city), Sussex County (FEMA Docket No. 7093)	
Atlantic Ocean:	
At Delaware Avenue (extended)	*15
Approximately 750 feet northeast of intersection of Surf Avenue and Henlopen Avenue	*9
Lewes and Rehoboth Canal:	
Intersection of Lewes and Rehoboth Canal and Rehoboth Avenue	*7
Approximately 2.3 miles north of intersection of Lewes and Rehoboth Canal and Rehoboth Avenue	*10
Maps available for inspection at the City Hall, Building and Licensing Office, 229 Rehoboth Avenue, Rehoboth Beach, Delaware.	
Seaford (city), Sussex County (FEMA docket No. 7093)	
Herring Run (Williams Pond):	
At confluence with Clear Brook (Williams Pond)	*10
At upstream corporate limits	*30
Nanticoke River:	
Approximately 0.6 mile downstream of CONRAIL	*6
Approximately 0.5 mile upstream of confluence of Clear Brook	*6
Clear Book (Williams Pond):	
At confluence with Nanticoke River	*6
Approximately 450 feet upstream of U.S. Route 13	*10
Maps available for inspection at the City Hall, 302 East King Street, Seaford, Delaware.	
Selbyville (town), Sussex County (FEMA Docket No. 7093)	
Buntings Branch:	
Approximately 1,000 feet downstream of State Route 54	*12
At confluence of Polly Branch	*25
Sandy Branch:	
At confluence of Polly Branch	*25
At downstream side of County Road 60 (Gumboro Road)	*38
Maps available for inspection at the Town Hall, 68 West Church Street, Selbyville, Delaware.	
Slaughter Beach (town), Sussex County (FEMA docket No. 7093)	
Delaware Bay:	
At Virginia Avenue (extended)	*14
At intersection of Slaughter Neck Road and Bay Avenue	*9
Maps available for inspection at the Town Office/Slaughter Beach Fire Hall, Bay Avenue, Slaughter Beach, Delaware.	
South Bethany (town), Sussex County (FEMA docket No. 7093)	
Atlantic Ocean:	
At South 9th Street (extended)	*15
At intersection of Canal Drive and West 8th Street	*6
Approximately 300 feet east of intersection of State Route 1 and Indian Street	#2
Maps available for inspection at the Town Hall, 402 Evergreen Road, South Bethany, Delaware.	
Sussex County (unincorporated Areas) (FEMA docket No. 7093)	
Bridgeville Branch:	
Upstream of U.S. Route 13	*31
Approximately 900 feet upstream of U.S. Route 13	*32
Broad Creek:	
At downstream corporate limits for Town of Bethel	*6
Downstream side of U.S. Route 13	*12
Bark Pond:	
At confluence with Millsboro Pond	*10
Approximately 100 feet upstream of County Road 328	*12
Betts Pond:	
At confluence with Millsboro Pond	*9
Downstream side of U.S. Route 113	*15
Pepper Creek Fork 1:	
At confluence with Pepper Creek	*8
Approximately 0.4 mile upstream of CONRAIL	*28
Pepper Creek Fork 3:	
Approximately 75 feet upstream of confluence with Pepper Creek	*15
Approximately 0.2 mile upstream of County Road 406	*33
Georgetown Road Branch	
At confluence with Broad Creek	*12
Approximately 0.3 mile upstream of County Road 466	*22
Round Pole Branch:	
Approximately 200 feet upstream of Front Street	*9
Approximately 700 feet upstream of Cannery Bridge	*20
Broadkill River:	
Approximately 1 mile downstream of confluence of Round Pole Branch	*9
At confluence of Round Pole Branch	*9
Cart Branch:	
At upstream side of U.S. Route 13	*45
Approximately 650 feet upstream of CONRAIL	*51
Cedar Creek:	
At upstream side of State Route 30	*12

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 0.8 mile upstream of U.S. Route 113	*40
Church Branch:	
At upstream side of County Road 224	*12
Approximately 50 feet upstream of County Road 227	*48
Clear Brook:	
At confluence with Nanticoke River	*6
Approximately 0.3 mile upstream of County Road 46	*32
Deep Creek:	
At confluence with Nanticoke River	*6
Approximately 0.7 mile upstream of confluence of Tubbs Branch	*6
Deep Branch:	
Just upstream of State Route 1	*14
At Marshall Street	*15
Chapel Branch:	
At confluence with Burton Pond	*9
Approximately 1.2 miles upstream of confluence with Burton Pond	*10
Herring Creek:	
Approximately 0.8 mile downstream of confluence of Hopkins Prong	*7
At confluence of Chapel Branch	*9
Hopkins Prong:	
At confluence with Herring Creek	*7
At confluence of Phillips Branch	*8
Unity Branch:	
At confluence of Phillips Branch	*8
Approximately 0.5 mile upstream of County Road 302	*12
Indian River:	
At confluence of Warwick Gut	*8
At confluence of Bark Pond and Mirey Branch	*10
Ingram Branch:	
At confluence with Pemberton Branch (Wagamons Pond)	*9
Approximately 50 feet upstream of County Road 319	*19
Iron Branch:	
At confluence with Whartons Branch	*8
Approximately 0.5 mile upstream of U.S. Route 113	*19
Little Creek:	
At confluence with Broad Creek	*6
Approximately 1.2 miles upstream of County Road 492	*15
Love Creek:	
At upstream side of State Route 24	*7
Approximately 0.8 mile upstream of confluence of Goslee Creek	*8
Mirey Branch:	
At confluence with Millsboro Pond	*10
Approximately 0.5 mile upstream of County Road 326	*20
Nanticoke River:	
At confluence of Morgan Branch	*6
Approximately 3.3 miles upstream of confluence of Deep Creek	*9
Pepper Creek:	
Approximately 2.4 miles downstream of confluence of Pepper Creek Fork 1	*8
At confluence of Pepper Creek Fork 1	*8
Martin Branch (Red Mill Pond):	
At upstream of State Route 1	*9
Approximately 1.1 miles upstream of County Road 261	*16
Rossakatum Branch:	
Approximately 150 feet downstream of County Road 69	*15
Approximately 0.7 mile upstream of County Road 69	*23
Sowbridge Branch:	
Approximately 500 feet downstream of Northbound State Route 1	*9
Approximately 1,100 feet upstream of U.S. Route 226	*46
Tantrough Branch:	
Approximately 600 feet upstream of U.S. Route 113	*16
Approximately 0.6 mile upstream of confluence of Beaverdam Branch	*35
Vines Creek:	
Approximately 0.8 mile downstream of County Road 92	*16
Approximately 0.5 mile upstream of County Road 376	*31
Whartons Branch:	
At confluence with Indian River	*8
Approximately 75 feet upstream of County Road 334	*17
White Creek:	
Approximately 0.7 mile downstream of confluence of White Creek Ditch	*8
Approximately 150 feet upstream of Warren Road	*12
Buntings Branch:	
Approximately 1,000 feet downstream of State Route 54	*12
At confluence of Polly Branch	*25
Sandy Branch:	
At confluence of Polly Branch	*25
Approximately 75 feet upstream of Gumboro Road	*38
White Creek Ditch:	
At confluence with White Creek	*8
Approximately 0.4 mile upstream of County Road 84 (Central Avenue)	*8
Slaughter Creek:	
Approximately 0.3 mile downstream of State Route 1	*9
At State Route 1	*9
Pemberton Branch (Wagamons Pond):	
At confluence with Broadkill River	*9
Approximately 50 feet downstream of CONRAIL	*11
Delaware Bay:	
Approximately 2,000 feet north of intersection of Farm Lane and County Road 201	*11
Approximately 1 mile northeast of intersection of State Route 36 and County Road 203	*14
Delaware Bay (Break Water Harbor):	
Approximately 1.5 miles south of intersection of U.S. Route 19 and Engineering Road	*8
Rehoboth Bay:	
At intersection of County Road 298 and Guinea Creek	*7
Approximately 1,000 feet east of intersection of State Route 1 and Key Box Road	*15
Indian River Bay:	
At Gut Point	*8
At Indian River Inlet	*15
Little Assawoman Bay:	
At intersection of Dirickson Creek and County Road 384	*6
Approximately 1,000 feet east of intersection of State Route 1 and Ocean Park Lane	*15
Chesapeake Bay: Nanticoke River and Broad Creek	*6
Herring Run:	
At confluence of Clear Brook (Williams Pond)	*10
Approximately 0.7 mile upstream of Alternate U.S. Route 13	*26
Atlantic Ocean:	
Approximately 1,500 feet northeast of intersection of County Road 267 and Access Road	*11
At Beach Avenue extended	*15

Maps available for inspection at the Planning and Zoning Office, Courthouse Circle, Georgetown, Delaware

INDIANA

Fort Wayne (city), Allen County (FEMA docket No. 7120)

Maumee River:	
Approximately 2 miles downstream of U.S. Route 24	*751
At confluence with St. Joseph River	*757
St. Joseph River:	
At confluence with Maumee River	*757
Approximately 0.7 mile upstream of confluence of Becketts Run	*768
St. Marys River:	
At confluence with St. Joseph River	*757
Approximately 1.6 miles upstream of Bluffon Road	*763
Spy Run Creek:	
At confluence with St. Marys River	*757
Approximately 0.2 mile downstream of State Boulevard	*757
Junk Ditch:	
At confluence with St. Marys River	*759
Approximately 0.4 mile upstream of confluence with St. Marys River	*759

Maps available for inspection at the City County Building, One Main Street, Fort Wayne, Indiana.

Monroe County (unincorporated Areas) (FEMA docket No. 7116)

Jacks Defeat Creek:	
Approximately 0.64 mile downstream of Harbison Road	*695
Approximately 0.3 mile upstream of CSX Transportation Railroad	*768
Tributary One:	
At confluence with Jacks Defeat Creek	*707
Approximately 0.36 mile upstream of Nursery Road	*779

Maps available for inspection at the Monroe County Courthouse, Courthouse Square, Bloomington, Indiana.

New Haven (city), Allen County (FEMA docket No. 7120)

Maumee River:	
Approximately 3.7 miles downstream of U.S. Route 24	*750
Approximately 2.6 miles downstream of U.S. Route 24	*750

Maps available for inspection at the City Administration Building, 1235 Lincoln Highway East, New Haven, Indiana.

MAINE

Farmington (town), Franklin County (FEMA docket No. 7112)

Sandy River:	
Approximately 0.5 mile downstream of State Route 41	*340
Approximately 2.6 miles upstream of State Route 4 bridge (corporate limits)	*389
Wilson Stream:	
At confluence with Sandy River	*345
Approximately 0.4 mile upstream of State Route 133 bridge (corporate limits)	*377
Temple Stream:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At confluence with Sandy River	*355
Approximately 0.9 mile above Russels Mill Road bridge (corporate limits)	*457
Barker Stream:	
At confluence with Sandy River	*368
Approximately 800 feet upstream of Old State Route 27	*533
Cascade Brook:	
At confluence with Sandy River	*352
Approximately 180 feet above State Route 43 bridge (Allens Mill Road)	*484
Beaver Brook:	
At confluence with Sandy River	*357
Upstream side of Middle Street bridge	*395
Clear Water Pond: Entire shoreline within community	*563
Maps available for inspection at the Farmington Municipal Building, 147 Lower Main Street, Farmington, Maine.	
NEW HAMPSHIRE	
Freedom (town), Carroll County (FEMA docket No. 7112)	
West Branch:	
At confluence with Ossipee Lake	*414
Upstream side of Ossipee Lake Road	*446
Ossipee Lake: Entire shoreline within community	*414
Broad Bay: Entire shoreline within community	*414
Leavitt Bay: Entire shoreline within community	*414
Maps available for inspection at the Town Office Building, Old Portland Road, Freedom, New Hampshire.	
Ossipee (town), Carroll County (FEMA docket No. 7110)	
Lovell River:	
Approximately 0.5 mile upstream of confluence with Ossipee Lake	*415
Approximately 1,000 feet upstream of State Route 16/25	*434
West Branch:	
Approximately 0.6 mile upstream of confluence with Ossipee Lake	*414
At upstream corporate limits	*446
Maps available for inspection at the Town Hall, Main Street, Center Ossipee, New Hampshire.	
OHIO	
Malvern (village), Carroll County	
Big Sandy Creek:	
Approximately 600 feet downstream of downstream corporate limits	*994
Approximately 600 feet upstream of upstream corporate limits	*998
Maps available for inspection at the Village Hall, 116 West Main Street, Malvern, Ohio.	
OKLAHOMA	
Midwest City (city), Oklahoma County (FEMA docket No. 7058)	
Soldier Creek:	
Approximately 100 feet upstream of confluence with Crutcho Creek	*1,168
At S.E. 29th Street	*1,222
Soldier Creek Tributary 4:	
At confluence with Soldier Creek	*1,185
At Douglas Boulevard	*1,210
Soldier Creek Tributary 6:	
At confluence with Soldier Creek	*1,198
At Post Road	*1,231
Crutcho Creek:	
Approximately 1,700 feet downstream of N.E. 36th Street	*1,157
At S.E. 29th Street	*1,204
Choctaw Creek:	
Approximately 0.45 mile downstream of East Reno Avenue	*1,165
Approximately 0.65 mile upstream of S.E. 15th Street	*1,223
Choctaw Creek Tributary:	
At confluence with Choctaw Creek	*1,190
At upstream side of S.E. 15th Street	*1,217
Crutcho Creek Tributary D:	
At confluence with Crutcho Creek	*1,169
Approximately 1,300 feet upstream of confluence with Crutcho Creek	*1,170
Maps available for inspection at the Midwest City Hall, 100 N. Midwest Boulevard, Midwest City, Oklahoma.	
SOUTH CAROLINA	
Cayce (city), Lexington County (FEMA docket No. 7078)	
Tributary SM–2:	
At North Eden Drive	*150
Approximately 125 feet upstream of Old Frink Street	*170
Maps available for inspection at the Cayce City Hall, Community Development Office, 1800 12th Street, Cayce, South Carolina.	
SOUTH CAROLINA	
Columbia (city), Lexington and Richland Counties (FEMA docket No. 7078)	
Tributary K–2:	
Approximately 285 feet upstream of the unnamed road	*244
Approximately 510 feet upstream of the unnamed road	*248
Maps available for inspection at the City Hall, Public Information Office, 1737 Main Street, Columbia, South Carolina.	
Lexington County (unincorporated areas) (FEMA docket Nos. 7078 and 7110)	
Yost Creek:	
Approximately 500 feet upstream of confluence with Rawls Creek	*205
Approximately 60 feet upstream of Lincreek Road	*308
Tributary SM–2:	
Approximately 70 feet upstream of confluence with Six Mile Creek	*144
Approximately 130 feet upstream of Old Frink Street	*170
Savana Branch:	
Approximately 1,850 feet upstream of confluence with Congaree Creek	*145
At downstream side of Edmund Highway	*160
Tributary K–2:	
Just upstream of Piney Grove Road	*222
Approximately 285 feet upstream of the unnamed road	*243
Twelve Mile Creek:	
At Corley Mill Road	*192
Approximately 1.4 miles upstream of Mineral Springs Road	*243
Fourteen Mile Creek:	
At confluence with Twelve Mile Creek	*192
Approximately 0.6 mile upstream of Old Chapin Road	*359
Tributary SM–5:	
Approximately 75 feet upstream of Rainbow Drive	*224
Approximately 825 feet upstream of Rainbow Drive	*226
Stoop Creek:	
Approximately 60 feet downstream of CSX Transportation	*183
Approximately 0.5 mile upstream of Interstate 26	*223
Shallow Flooding: Area between Savana Branch and Congaree Creek south of Old Dunbar Road	#2
Senn Branch:	
Approximately 200 feet downstream of Epharata Drive	*224
Just upstream of Hebron Drive	*301
Tributary SM–3:	
A point approximately 100 feet downstream of Edmund Highway (Route 302)	*176
Approximately 0.4 mile upstream of dam at Lexington Drive	*214
Stoop Creek:	
Approximately 70 feet upstream of Fairway Lane	*200
Approximately 200 feet downstream of Interstate Highway 26	*210
Maps available for inspection at the Lexington County Administration Building, Planning and Development Office, 212 South Lake Drive, Lexington, South Carolina.	
Lexington (town), Lexington County (FEMA docket No. 7078)	
Fourteen Mile Creek:	
Approximately 2,275 feet upstream of Whiteford Way	*282
Approximately 0.6 mile upstream of Old Chapin Road	*359
Twelve Mile Creek:	
Approximately 1.0 mile upstream of Mineral Springs Road	*239
Approximately 900 feet downstream of confluence of Tributary TM–1	*252
Maps available for inspection at the Lexington Town Hall, Building Department, 111 Maiden Lane, Lexington, South Carolina.	
Pine Ridge (town), Lexington County (FEMA docket No. 7078)	
Shallow Flooding: Area between Savana Branch and Congaree Creek south of Old Dunbar Road	#2
Maps available for inspection at the Pine Ridge Town Hall, 1015 Fish Hatchery Road, West Columbia, South Carolina.	
Springdale (town), Lexington County (FEMA docket No. 7078)	
Tributary SM–5:	
At Rainbow Drive	*220

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 75 feet upstream of Rainbow Drive	*224
Maps available for inspection at the Springdale Town Hall, 2915 Platt Spring Road, Springdale, South Carolina.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: March 1, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–5973 Filed 3–9–95; 8:45 am]

BILLING CODE 6718–03–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2543

Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: This final rule amends the Corporation for National and Community Services regulations to incorporate the changes established by revised OMB Circular 1–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations,'' published by the Office of Management and Budget (OMB) on November 29, 1993. Consistent with the Circular, this rule applies to Corporation for National and Community Service awards to institutions of higher education, hospitals, and other non-profit organizations.

EFFECTIVE DATE: March 10, 1995.

ADDRESSES: The Corporation for National and Community Service, 1201 New York Ave. NW., Washington, DC. 20525.

FOR FURTHER INFORMATION CONTACT: Rina Tucker, (202) 606–5000 x257 between the hours of 9 a.m. and 5 p.m. This document will be made available in an alternative format upon request.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

In November of 1990, OMB established an interagency task force to review the Circular with a view toward its revision based on recommendations solicited from affected organizations such as universities and other non-profit groups. The task force developed a proposed revision of the Circular, which OMB published on August 27, 1992 (57 FR 39018). After considering the over 200 comments from a wide variety of federal and non-federal respondents, OMB published the final revised Circular in the **Federal Register** on November 29, 1993 (58 FR 62992).

OMB Circular A–110 sets forth government-wide standards governing Federal agency administration of grants and other agreements with institutions of higher education, hospitals, and other non-profit organizations. Federal agencies must apply the provisions of the Circular in making awards to the covered entities; all primary recipients (including governments) of Federal awards must also apply the Circular's provisions to any subawards they make to such entities. Those provisions that affect Federal agencies were effective on December 29, 1993 (58 FR 62992–93). With respect to the Circular's application to recipients of Federal agency awards, OMB's notice directed each affect agency to promulgate its own rules adopting the provisions of the Circular (58 FR 62992–93).

Accordingly, the Corporation is publishing this final rule whose primary purpose is to incorporate the provisions of OMB Circular A–110 into the Corporation's grants administration regulations at 45 CFR part 25. Consistent with the Circular, this rule applies to Corporation awards made to institutions of higher education, hospitals and other non-profit organizations.

II. Regulatory Impact Analysis

In keeping with the requirements of 44 U.S.C. 3504(h), the information collection requirements contained in this rule have been approved by OMB as Standard Forms. This rule will not have a substantial impact on a significant number of small entities, thus a regulatory flexibility analysis has not been prepared pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The agency has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment pursuant to Executive Order 12612. In addition, the Agency has determined that implementation of this action will not have any significant impact on the quality of the human environment pursuant to the National Environmental Policy Act.

List of Subjects in 45 CFR Part 2543

Accounting, Administrative practice and procedures, Grant programs—health, Grant programs—social, Grants administration, Reporting and recordkeeping requirements.

Dated: March 2, 1995.

Terry Russell,

General Counsel.

Accordingly, as set forth in the preamble, the Corporation amends title 45, chapter XXV of the Code of Federal Regulations by adding part 2543 to read as follows:

PART 2543—GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS

Subpart A—General

Sec.
2543.1 Purpose.
2543.2 Definitions.
2543.3 Effect on other issuances.
2543.4 Deviations.
2543.5 Subawards.

Subpart B—Pre-Award Requirements

2543.10 Purpose.
2543.11 Pre-award policies.
2543.12 Forms for applying for Federal assistance.
2543.13 Debarment and suspension.
2543.14 Special award conditions.
2543.15 Metric system of measurement.
2543.16 Resource Conservation and Recovery Act.
2543.17 Certifications and representations.

Subpart C—Post-Award Requirements

Financial and Program Management

2543.20 Purpose of financial and program management.
2543.21 Standards for financial management systems.
2543.22 Payment.
2543.23 Cost sharing or matching.
2543.24 Program income.
2543.25 Revision of budget and program plans.
2543.26 Non-Federal audits.
2543.27 Allowable costs.
2543.28 Period of availability of funds.

Property Standards

2543.30 Purpose of property standards.
2543.31 Insurance coverage.
2543.32 Real property.
2543.33 Federally-owned and exempt property.
2543.34 Equipment.
2543.35 Supplies and other expendable property.
2543.36 Intangible property.
2543.37 Property trust relationship.

Procurement Standards

2543.40 Purpose of procurement standards.
2543.41 Recipient responsibilities.

Authority: 42 U.S.C. 12501 et seq.

Subpart A—General

§ 2543.1 Purpose.

This Circular establishes uniform administrative requirements for Federal grants and agreements awarded to institutions of higher education, hospitals, and other non-profit organizations. Federal awarding agencies shall not impose additional or inconsistent requirements, except as provided in Sections 2543.4, and 2543.14 or unless specifically required by Federal statute or executive order. Non-profit organizations that implement Federal programs for the States are also subject to State requirements.

§ 2543.2 Definitions.

(a) *Accrued expenditures* means the charges incurred by the recipient during a given period requiring the provision of funds for:

(1) Goods and other tangible property received;

(2) Services performed by employees, contractors, subrecipients, and other payees; and,

(3) Other amounts becoming owed under programs for which no current services or performance is required.

(b) *Accrued income* means the sum of:

(1) Earnings during a given period from

(i) Services performed by the recipient, and

(ii) Goods and other tangible property delivered to purchasers, and

(2) Amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

(c) *Acquisition cost of equipment* means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

(d) *Advance* means a payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

(e) *Award* means financial assistance that provides support or stimulation to accomplish a public purpose. Awards include grants and other agreements in the form of money or property in lieu of money, by the Federal Government to an eligible recipient. The term does not include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations.

(f) *Cash contributions* means the recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

(g) *Closeout* means the process by which a Federal awarding agency determines that all applicable administrative actions and all required work of the award have been completed by the recipient and Federal awarding agency.

(h) *Contract* means a procurement contract under an award or subaward, and a procurement subcontract under a recipient's or subrecipient's contract.

(i) *Cost sharing or matching* means that portion of project or program costs not borne by the Federal Government.

(j) *Date of completion* means the date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which Federal sponsorship ends.

(k) *Disallowed costs* means those charges to an award that the Federal awarding agency determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

(l) *Equipment* means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, consistent with recipient policy, lower limits may be established.

(m) *Excess property* means property under the control of any Federal awarding agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

(n) *Exempt property* means tangible personal property acquired in whole or in part with Federal funds, where the Federal awarding agency has statutory authority to vest title in the recipient without further obligation to the Federal Government. An example of exempt property authority is contained in the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6306), for property acquired under an award to conduct basic or applied research by a non-profit institution of higher education or non-profit organization whose principal purpose is conducting scientific research.

(o) *Federal awarding agency* means the Federal agency that provides an award to the recipient.

(p) *Federal funds authorized* means the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior funding periods when permitted by agency regulations or agency implementing instructions.

(q) *Federal share* of real property, equipment, or supplies means that percentage of the property's acquisition costs and any improvement expenditures paid with Federal funds.

(r) *Funding period* means the period of time when Federal funding is available for obligation by the recipient.

(s) *Intangible property and debt instruments* means, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other debt instruments, lease agreements, stock and other instruments of property

ownership, whether considered tangible or intangible.

(t) *Obligations* means the amounts of orders placed, contracts and grants awarded, services received and similar transactions during a given period that require payment by the recipient during the same or a future period.

(u) *Outlays or expenditures* means charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of third party in-kind contributions applied and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subrecipients and other payees and other amounts becoming owed under programs for which no current services or performance are required.

(v) *Personal property* means property of any kind except real property. It may be tangible, having physical existence, or intangible, having no physical existence, such as copyrights, patents, or securities.

(w) *Prior approval* means written approval by an authorized official evidencing prior consent.

(x) *Program income* means gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award (see exclusions in paragraphs § 2543.24 (e) and (h)). Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal awarding agency regulations or the terms and conditions of the award, program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

(y) *Project costs* means all allowable costs, as set forth in the applicable Federal cost principles, incurred by a recipient and the value of the contributions made by third parties in accomplishing the objectives of the award during the project period.

(z) *Project period* means the period established in the award document during which Federal sponsorship begins and ends.

(aa) *Property* means, unless otherwise stated, real property, equipment, intangible property and debt instruments.

(bb) *Real property* means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

(cc) *Recipient* means an organization receiving financial assistance directly from Federal awarding agencies to carry out a project or program. The term includes public and private institutions of higher education, public and private hospitals, and other quasi-public and private non-profit organizations such as, but not limited to, community action agencies, research institutes, educational associations, and health centers. The term may include commercial organizations, foreign or international organizations (such as agencies of the United Nations) which are recipients, subrecipients, or contractors or subcontractors of recipients or subrecipients at the discretion of the Federal awarding agency. The term does not include government-owned contractor-operated facilities or research centers providing continued support for mission-oriented, large-scale programs that are government-owned or controlled, or are designated as federally-funded research and development centers.

(dd) *Research and development* means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions. ''Research'' is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. ''Development'' is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(ee) *Small awards* means a grant or cooperative agreement not exceeding the small purchase threshold fixed at 41 U.S.C. 403(11) (currently $25,000).

(ff) *Subaward* means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include any form of assistance which is excluded from the definition of ''award'' in paragraph (e).

(gg) *Subrecipient* means the legal entity to which a subaward is made and which is accountable to the recipient for the use of the funds provided. The term may include foreign or international organizations (such as agencies of the United Nations) at the discretion of the Federal awarding agency.

(hh) *Supplies* means all personal property excluding equipment, intangible property, and debt instruments as defined in this section, and inventions of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement (''subject inventions''), as defined in 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements.''

(ii) *Suspension* means an action by a Federal awarding agency that temporarily withdraws Federal sponsorship under an award, pending corrective action by the recipient or pending a decision to terminate the award by the Federal awarding agency. Suspension of an award is a separate action from suspension under Federal agency regulations implementing E.O.s 12549 and 12689, ''Debarment and Suspension.''

(jj) *Termination* means the cancellation of Federal sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

(kk) *Third party in-kind contributions* means the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

(ll) *Unliquidated obligations,* for financial reports prepared on a cash basis, means the amount of obligations incurred by the recipient that have not been paid. For reports prepared on an

accrued expenditure basis, they represent the amount of obligations incurred by the recipient for which an outlay has not been recorded.

(mm) *Unobligated balance* means the portion of the funds authorized by the Federal awarding agency that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

(nn) *Unrecovered indirect cost* means the difference between the amount awarded and the amount which could have been awarded under the recipient's approved negotiated indirect cost rate.

(oo) *Working capital advance* means a procedure where by funds are advanced to the recipient to cover its estimated disbursement needs for a given initial period.

§ 2543.3 Effect on other issuances.

For awards subject to this Circular, all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are inconsistent with the requirements of this Circular shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in Section § 2543.4.

§ 2543.4 Deviations.

The Office of Management and Budget (OMB) may grant exceptions for classes of grants or recipients subject to the requirements of this Circular when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this Circular shall be permitted only in unusual circumstances. Federal awarding agencies may apply more restrictive requirements to a class of recipients when approved by OMB. Federal awarding agencies may apply less restrictive requirements when awarding small awards, except for those requirements which are statutory. Exceptions on a case-by-case basis may also be made by Federal awarding agencies.

§ 2543.5 Subawards.

Unless sections of this Circular specifically exclude subrecipients from coverage, the provisions of this Circular shall be applied to subrecipients performing work under awards if such subrecipients are institutions of higher education, hospitals or other non-profit organizations. State and local government subrecipients are subject to the provisions of regulations implementing the grants management common rule, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' published at 53 FR 8034.

Subpart B—Pre-Award Requirements

§ 2543.10 Purpose.

Sections § 2543.11 through § 2543.17 prescribes forms and instructions and other pre-award matters to be used in applying for Federal awards.

§ 2543.11 Pre-award policies.

(a) Use of Grants and Cooperative Agreements, and Contracts. In each instance, the Federal awarding agency shall decide on the appropriate award instrument (i.e., grant, cooperative agreement, or contract). The Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–08) governs the use of grants, cooperative agreements and contracts. A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, ''substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.'' Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government.

(b) Public Notice and Priority Setting. Federal awarding agencies shall notify the public of its intended funding priorities for discretionary grant programs, unless funding priorities are established by Federal statute.

§ 2543.12 Forms for applying for Federal assistance.

(a) Federal awarding agencies shall comply with the applicable report clearance requirements of 5 CFR part 1320, ''Controlling Paperwork Burdens on the Public,'' with regard to all forms used by the Federal awarding agency in place of or as a supplement to the Standard Form 424 (SF–424) series.

(b) Applicants shall use the SF–424 series or those forms and instructions prescribed by the Federal awarding agency.

(c) For Federal programs covered by E.O. 12372, ''Intergovernmental Review of Federal Programs,'' the applicant shall complete the appropriate sections of the SF–424 (Application for Federal Assistance) indicating whether the application was subject to review by the State Single Point of Contact (SPOC). The name and address of the SPOC for a particular State can be obtained from the Federal awarding agency or the *Catalog of Federal Domestic Assistance.* The SPOC shall advise the applicant whether the program for which application is made has been selected by that State for review.

(d) Federal awarding agencies that do not use the SF–424 form should indicate whether the application is subject to review by the State under E.O. 12372.

§ 2543.13 Debarment and suspension.

Federal awarding agencies and recipients shall comply with the nonprocurement debarment and suspension common rule implementing E.O.s 12549 and 12689, ''Debarment and Suspension.'' This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

§ 2543.14 Special award conditions.

If an applicant or recipient:

(a) has a history of poor performance,

(b) is not financially stable,

(c) has a management system that does not meet the standards prescribed in this Circular,

(d) has not conformed to the terms and conditions of a previous award, or

(e) is not otherwise responsible,

Federal awarding agencies may impose additional requirements as needed, provided that such applicant or recipient is notified in writing as to: the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the corrective action needed, the time allowed for completing the corrective actions, and the method for requesting reconsideration of the additional requirements imposed. Any special conditions shall be promptly removed once the conditions that prompted them have been corrected.

§ 2543.15 Metric system of measurement.

The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce. The Act requires each Federal agency to establish a date or dates in consultation with the Secretary of Commerce, when the metric system of measurement will be used in the agency's procurements, grants, and other business-related activities. Metric implementation may take longer where the use of the system is initially impractical or likely to cause significant inefficiencies in the accomplishment of

federally-funded activities. Federal awarding agencies shall follow the provisions of E.O. 12770, ''Metric Usage in Federal Government Programs.''

§ 2543.16 Resource Conservation and Recovery Act.

Under the Act Resource Conservation and Recovery Act (42 U.S.C. 6962), any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with Section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) (40 CFR parts 247–254).

Accordingly, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

§ 2543.17 Certifications and representations.

Unless prohibited by statute or codified regulation, each Federal awarding agency is authorized and encouraged to allow recipients to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if the recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure recipients' compliance with the pertinent requirements.

Subpart C—Post-Award Requirements

Financial and Program Management

§ 2543.20 Purpose of financial and program management.

Sections 2543.21 through 2543.25 prescribe standards for financial management systems, methods for making payments and rules for: satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability of cost, and establishing fund availability.

§ 2543.21 Standards for financial management systems.

(a) Federal awarding agencies shall require recipients to relate financial data to performance data and develop unit cost information whenever practical.

(b) Recipients' financial management systems shall provide for the following:

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in § 2543.51. If a Federal awarding agency requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient shall not be required to establish an accrual accounting system. These recipients may develop such accrual data for its reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101–453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, ''Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs.''

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, the Federal awarding agency, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

(d) The Federal awarding agency may require adequate fidelity bond coverage where the recipient lacks sufficient coverage to protect the Federal Government's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, ''Surety Companies Doing Business With the United States.''

§ 2543.22 Payment.

(a) Payment methods shall minimize the time elapsing between the transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR part 205.

(b) Recipients are to be paid in advance, provided they maintain or demonstrate the willingness to maintain:

(1) written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient, and

(2) financial management systems that meet the standards for fund control and accountability as established in § 2543.21. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

(c) Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by the Federal awarding agency to the recipient.

(1) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer.

(2) Advance payment mechanisms are subject to 31 CFR part 205.

(3) Recipients shall be authorized to submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.

(d) Requests for Treasury check advance payment shall be submitted on SF–270, ''Request for Advance or Reimbursement,'' or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if precluded by special Federal awarding agency instructions for electronic funds transfer.

(e) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met. Federal awarding agencies may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project.

(1) When the reimbursement method is used, the Federal awarding agency shall make payment within 30 days after receipt of the billing, unless the billing is improper.

(2) Recipients shall be authorized to submit request for reimbursement at least monthly when electronic funds transfers are not used.

(f) If a recipient cannot meet the criteria for advance payments and the Federal awarding agency has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, the Federal awarding agency may provide cash on a working capital advance basis. Under this procedure, the Federal awarding agency shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter, the Federal awarding agency shall reimburse the recipient for its actual cash disbursements. The working capital advance method of payment shall not be used for recipients unwilling or unable to provide timely advances to their subrecipient to meet the subrecipient's actual cash disbursements.

(g) To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(h) Unless otherwise required by statute, Federal awarding agencies shall not withhold payments for proper charges made by recipients at any time during the project period unless:

(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or Federal reporting requirements, or

(2) The recipient or subrecipient is delinquent in a debt to the United States as defined in OMB Circular A–129, ''Managing Federal Credit Programs.'' Under such conditions, the Federal awarding agency may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows:

(1) Except for situations described in paragraph (i)(2), Federal awarding agencies shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(k) Recipients shall maintain advances of Federal funds in interest bearing accounts, unless:

(1) The recipient receives less than $120,000 in Federal awards per year.

(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of $250 per year on Federal cash balances.

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(l) For those entities where CMIA and its implementing regulations do not apply, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to Department of Health and Human Services, Payment Management System, Rockville, MD 20852. Interest amounts up to $250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from the Federal awarding agency, it waives its right to recover the interest under CMIA.

(m) Except as noted elsewhere in this Circular, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. Federal agencies shall not require more than an original and two copies of these forms.

(1) SF–270, Request for Advance or Reimbursement. Each Federal awarding agency shall adopt the SF–270 as a standard form for all nonconstruction programs when electronic funds transfer or predetermined advance methods are not used. Federal awarding agencies, however, have the option of using this form for construction programs in lieu of the SF–271, ''Outlay Report and Request for Reimbursement for Construction Programs.''

(2) SF–271, Outlay Report and Request for Reimbursement for Construction Programs. Each Federal awarding agency shall adopt the SF–271 as the standard form to be used for requesting reimbursement for construction programs. However, a Federal awarding agency may substitute the SF–270 when the Federal awarding agency determines that it provides adequate information to meet Federal needs.

§ 2543.23 Cost sharing or matching.

(a) All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria.

(1) Are verifiable from the recipient's records.

(2) Are not included as contributions for any other federally-assisted project or program.

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are provided for in the approved budget when required by the Federal awarding agency.

(7) Conform to other provisions of this Circular, as applicable.

(b) Unrecovered indirect costs may be included as part of cost sharing or matching only with the prior approval of the Federal awarding agency.

(c) Values for recipient contributions of services and property shall be established in accordance with the applicable cost principles. If a Federal

awarding agency authorizes recipients to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching shall be the lesser of:

(1) The certified value of the remaining life of the property recorded in the recipient's accounting records at the time of donation, or.

(2) The current fair market value. However, when there is sufficient justification, the Federal awarding agency may approve the use of the current fair market value of the donated property, even if it exceeds the certified value at the time of donation to the project.

(d) Volunteer services furnished by professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for volunteer services shall be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates shall be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

(e) When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that are reasonable, allowable, and allocable, but exclusive of overhead costs), provided these services are in the same skill for which the employee is normally paid.

(f) Donated supplies may include such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to donated supplies included in the cost sharing or matching share shall be reasonable and shall not exceed the fair market value of the property at the time of the donation.

(g) The method used for determining cost sharing or matching for donated equipment, buildings and land for which title passes to the recipient may differ according to the purpose of the award:

(1) If the purpose of the award is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching, or.

(2) If the purpose of the award is to support activities that require the use of equipment, buildings or land, normally only depreciation or use charges for equipment and buildings may be made. However, the full value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the Federal awarding agency has approved the charges.

(h) The value of donated property shall be determined in accordance with the usual accounting policies of the recipient, with the following qualifications.

(1) The value of donated land and buildings shall not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient.

(2) The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment shall not exceed its fair rental value.

(5) The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.

(i) Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.

(ii) The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

§ 2543.24 Program income.

(a) Federal awarding agencies shall apply the standards set forth in this section in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds.

(b) Except as provided in paragraph (h) below, program income earned during the project period shall be retained by the recipient and, in accordance with Federal awarding agency regulations or the terms and conditions of the award, shall be used in one or more of the ways listed in the following:

(1) Added to funds committed to the project by the Federal awarding agency and recipient and used to further eligible project or program objectives.

(2) Used to finance the non-Federal share of the project or program.

(3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based.

(c) When an agency authorizes the disposition of program income as described in paragraph (b)(1) or (b)(2), program income in excess of any limits stipulated shall be used in accordance with paragraph (b)(3).

(d) In the event that the Federal awarding agency does not specify in its regulations or the terms and conditions of the award how program income is to be used, paragraph (b)(3) shall apply automatically to all projects or programs except research. For awards that support research, paragraph (b)(1) shall apply automatically unless the awarding agency indicates in the terms and conditions another alternative on the award or the recipient is subject to special award conditions, as indicated in § 2543.14.

(e) Unless Federal awarding agency regulations or the terms and conditions of the award provide otherwise, recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period.

(f) If authorized by Federal awarding agency regulations or the terms and conditions of the award, costs incident to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award.

(g) Proceeds from the sale of property shall be handled in accordance with the requirements of the Property Standards. (See § 2543.28 through § 2543.36.)

(h) Unless Federal awarding agency regulations or the terms and condition of the award provide otherwise, recipients shall have no obligation to the Federal Government with respect to program income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

§ 2543.25 Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. It may include either the Federal and non-Federal share, or only the Federal share, depending upon Federal awarding agency requirements. It shall be related

to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, recipients shall request prior approvals from Federal awarding agencies for one or more of the following program or budget related reasons:

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or award document.

(3) The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The need for additional Federal funding.

(5) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, if approval is required by the Federal awarding agency.

(6) The inclusion, unless waived by the Federal awarding agency, of costs that require prior approval in accordance with OMB Circular A–21, ''Cost Principles for Institutions of Higher Education,'' OMB Circular A–122, ''Cost Principles for Non-Profit Organizations,'' or 45 CFR part 74 Appendix E, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts With Hospitals,'' or 48 CFR part 31, ''Contract Cost Principles and Procedures,'' as applicable.

(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(8) Unless described in the application and funded in the approved awards, the subaward, transfer or contracting out of any work under an award. This provision does not apply to the purchase of supplies, material, equipment or general support services.

(d) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(e) Except for requirements listed in paragraphs (c)(1) and (c)(4) of this section, Federal awarding agencies are authorized, at their option, to waive cost-related and administrative prior written approvals required by this Circular and OMB Circulars A–21 and A–122. Such waivers may include authorizing recipients to do any one or more of the following:

(1) Incur pre-award costs 90 calendar days prior to award or more than 90 calendar days with the prior approval of the Federal awarding agency. All pre-award costs are incurred at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

(2) Initiate a one-time extension of the expiration date of the award of up to 12 months unless one or more of the following conditions apply. For one-time extensions, the recipient must notify the Federal awarding agency in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

(i) The terms and conditions of award prohibit the extension.

(ii) The extension requires additional Federal funds.

(iii) The extension involves any change in the approved objectives or scope of the project.

(3) Carry forward unobligated balances to subsequent funding periods.

(4) For awards that support research, unless the Federal awarding agency provides otherwise in the award or in the agency's regulations, the prior approval requirements described in paragraph (e) are automatically waived (i.e., recipients need not obtain such prior approvals) unless one of the conditions included in paragraph (e)(2) applies.

(f) The Federal awarding agency may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the Federal awarding agency. No Federal awarding agency shall permit a transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

(g) All other changes to nonconstruction budgets, except for the changes described in paragraph (j), do not require prior approval.

(h) For construction awards, recipients shall request prior written approval promptly from Federal awarding agencies for budget revisions whenever (1), (2) or (3) apply.

(1) The revision results from changes in the scope or the objective of the project or program.

(2) The need arises for additional Federal funds to complete the project.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in Section § 2543.27.

(i) No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB.

(j) When a Federal awarding agency makes an award that provides support for both construction and nonconstruction work, the Federal awarding agency may require the recipient to request prior approval from the Federal awarding agency before making any fund or budget transfers between the two types of work supported.

(k) For both construction and nonconstruction awards, Federal awarding agencies shall require recipients to notify the Federal awarding agency in writing promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the recipient for the project period by more than $5,000 or five percent of the Federal award, whichever is greater. This notification shall not be required if an application for additional funding is submitted for a continuation award.

(l) When requesting approval for budget revisions, recipients shall use the budget forms that were used in the application unless the Federal awarding agency indicates a letter of request suffices.

(m) Within 30 calendar days from the date of receipt of the request for budget revisions, Federal awarding agencies shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the Federal awarding agency shall inform the recipient in writing of the date when the recipient may expect the decision.

§ 2543.26 Non-Federal audits.

(a) Recipients and subrecipients that are institutions of higher education or other non-profit organizations shall be subject to the audit requirements contained in OMB Circular A–133, ''Audits of Institutions of Higher Education and Other Non-Profit Institutions.''

(b) State and local governments shall be subject to the audit requirements contained in the Single Audit Act (31

U.S.C. 7501–7) and Federal awarding agency regulations implementing OMB Circular A–128, ''Audits of State and Local Governments.''

(c) Hospitals not covered by the audit provisions of OMB Circular A–133 shall be subject to the audit requirements of the Federal awarding agencies.

(d) Commercial organizations shall be subject to the audit requirements of the Federal awarding agency or the prime recipient as incorporated into the award document.

§ 2543.27 Allowable costs.

For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.'' The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.'' The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.'' The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.'' The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A–122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31.

§ 2543.28 Period of availability of funds.

Where a funding period is specified, a recipient may charge to the grant only allowable costs resulting from obligations incurred during the funding period and any pre-award costs authorized by the Federal awarding agency.

Property Standards

§ 2543.30 Purpose of property standards.

Sections 2543.31 through 2543.37 set forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by a Federal award. Federal awarding agencies shall require recipients to observe these standards under awards and shall not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of § 2543.31 through § 2543.37.

§ 2543.31 Insurance coverage.

Recipients shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired with Federal funds as provided to property owned by the recipient. Federally-owned property need not be insured unless required by the terms and conditions of the award.

§ 2543.32 Real property.

Each Federal awarding agency shall prescribe requirements for recipients concerning the use and disposition of real property acquired in whole or in part under awards. Unless otherwise provided by statute, such requirements, at a minimum, shall contain the following:

(a) Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of the Federal awarding agency.

(b) The recipient shall obtain written approval by the Federal awarding agency for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally-sponsored projects (i.e., awards) or programs that have purposes consistent with those authorized for support by the Federal awarding agency.

(c) When the real property is no longer needed as provided in paragraphs (a) and (b), the recipient shall request disposition instructions from the Federal awarding agency or its successor Federal awarding agency. The Federal awarding agency shall observe one or more of the following disposition instructions.

(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.

(2) The recipient may be directed to sell the property under guidelines provided by the Federal awarding agency and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the recipient shall be entitled to compensation for its attributable percentage of the current fair market value of the property.

§ 2543.33 Federally-owned and exempt property.

(a) Federally-owned property.

(1) Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to the Federal awarding agency. Upon completion of the award or when the property is no longer needed, the recipient shall report the property to the Federal awarding agency for further Federal agency utilization.

(2) If the Federal awarding agency has no further need for the property, it shall be declared excess and reported to the General Services Administration, unless the Federal awarding agency has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710(I)) to donate research equipment to educational and non-profit organizations in accordance with E.O. 12821, ''Improving Mathematics and Science Education in Support of the National Education Goals''). Appropriate instructions shall be issued to the recipient by the Federal awarding agency.

(b) Exempt property. When statutory authority exists, the Federal awarding agency has the option to vest title to property acquired with Federal funds in the recipient without further obligation to the Federal Government and under conditions the Federal awarding agency considers appropriate. Such property is ''exempt property.'' Should a Federal awarding agency not establish conditions, title to exempt property upon acquisition shall vest in the recipient without further obligation to the Federal Government.

§ 2543.34 Equipment.

(a) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.

(b) The recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of the Federal awarding agency. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority:

(1) Activities sponsored by the Federal awarding agency which funded the original project; then

(2) activities sponsored by other Federal awarding agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the Federal awarding agency that financed the equipment; second preference shall be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the Federal awarding agency. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of the Federal awarding agency.

(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following:

(1) Equipment records shall be maintained accurately and shall include the following information.

(i) A description of the equipment.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number.

(iv) Whether title vests in the recipient or the Federal Government.

(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.

(vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).

(vii) Location and condition of the equipment and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal awarding agency for its share.

(2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify the Federal awarding agency.

(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards. For equipment with a current per unit fair market value of $5,000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the original Federal awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from the Federal awarding agency. The Federal awarding agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported to the General Services Administration by the Federal awarding agency to determine whether a requirement for the equipment exists in other Federal agencies. The Federal awarding agency shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse the Federal awarding agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.

(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be reimbursed by the Federal awarding agency for such costs incurred in its disposition.

(4) The Federal awarding agency may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.

(i) The equipment shall be appropriately identified in the award or otherwise made known to the recipient in writing.

(ii) The Federal awarding agency shall issue disposition instructions within

120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with grant funds and federally-owned equipment. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of this section, as appropriate.

(iii) When the Federal awarding agency exercises its right to take title, the equipment shall be subject to the provisions for federally-owned equipment.

§ 2543.35 Supplies and other expendable property.

(a) Title to supplies and other expendable property shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-Federal sponsored activities or sell them, but shall, in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as for equipment.

(b) The recipient shall not use supplies acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute as long as the Federal Government retains an interest in the supplies.

§ 2543.36 Intangible property.

(a) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. The Federal awarding agency(ies) reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(b) Recipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.''

(c) Unless waived by the Federal awarding agency, the Federal Government has the right to:

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award, and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(d) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of paragraph § 2543.34 (g).

§ 2543.37 Property trust relationship.

Real property, equipment, intangible property and debt instruments that are acquired or improved with Federal funds shall be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. Agencies may require recipients to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with Federal funds and that use and disposition conditions apply to the property.

Procurement Standards

§ 2543.40 Purpose of procurement standards.

Sections § 2543.41 through § 2543.48 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. No additional procurement standards or requirements shall be imposed by the Federal awarding agencies upon recipients, unless specifically required by Federal statute or executive order or approved by OMB.

§ 2543.41 Recipient responsibilities.

The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to the Federal awarding agency, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

§ 2543.42 Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

§ 2543.43 Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be

rejected when it is in the recipient's interest to do so.

§ 2543.44 Procurement procedures.

(a) All recipients shall establish written procurement procedures. These procedures shall provide for, at a minimum, that:

(1) Recipients avoid purchasing unnecessary items,

(2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government, and

(3) Solicitations for goods and services provide for all of the following:

(i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.

(ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

(iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

(iv) The specific features of ''brand name or equal'' descriptions that bidders are required to meet when such items are included in the solicitation.

(v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.

(vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

(2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

(3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

(4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

(5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The ''cost-plus-a-percentage-of-cost'' or ''percentage of construction cost'' methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of E.O.s 12549 and 12689, ''Debarment and Suspension.''

(e) Recipients shall, on request, make available for the Federal awarding agency, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply.

(1) A recipient's procurement procedures or operation fails to comply with the procurement standards in the Federal awarding agency's implementation of this Circular.

(2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently $25,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

(3) The procurement, which is expected to exceed the small purchase threshold, specifies a ''brand name'' product.

(4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

§ 2543.45 Cost and price analysis.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

§ 2543.46 Procurement records.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

(a) basis for contractor selection;

(b) justification for lack of competition when competitive bids or offers are not obtained; and

(c) basis for award cost or price.

§ 2543.47 Contract administration.

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

§ 2543.48 Contract provisions.

The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

(a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, the Federal awarding agency may accept the bonding policy and requirements of the recipient, provided the Federal awarding agency has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows.

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The ''bid guarantee'' shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A ''performance bond'' is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A ''payment bond'' is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, ''Surety Companies Doing Business with the United States.''

(d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this Circular, as applicable.

Reports and Records

§ 2543.50 Purpose of reports and records.

Sections § 2543.51 through § 2543.53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

§ 2543.51 Monitoring and reporting program performance.

(a) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in Section § 2543.26.

(b) The Federal awarding agency shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph § 2543.51(f), performance reports shall not be required more frequently than quarterly or, less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. The Federal awarding agency may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(c) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(d) When required, performance reports shall generally contain, for each award, brief information on each of the following.

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(e) Recipients shall not be required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify the Federal awarding agency of developments that have a significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(g) Federal awarding agencies may make site visits, as needed.

(h) Federal awarding agencies shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

§ 2543.52 Financial reporting.

(a) The following forms or such other forms as may be approved by OMB are authorized for obtaining financial information from recipients.

(1) SF–269 or SF–269A, Financial Status Report.

(i) Each Federal awarding agency shall require recipients to use the SF–269 or SF–269A to report the status of funds for all nonconstruction projects or programs. A Federal awarding agency may, however, have the option of not requiring the SF–269 or SF–269A when the SF–270, Request for Advance or Reimbursement, or SF–272, Report of Federal Cash Transactions, is determined to provide adequate information to meet its needs, except that a final SF–269 or SF–269A shall be required at the completion of the project when the SF–270 is used only for advances.

(ii) The Federal awarding agency shall prescribe whether the report shall be on a cash or accrual basis. If the Federal awarding agency requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

(iii) The Federal awarding agency shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required at the completion of the agreement.

(iv) The Federal awarding agency shall require recipients to submit the SF–269 or SF–269A (an original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for

annual and final reports. Extensions of reporting due dates may be approved by the Federal awarding agency upon request of the recipient.

(2) SF–272, Report of Federal Cash Transactions.

(i) When funds are advanced to recipients the Federal awarding agency shall require each recipient to submit the SF–272 and, when necessary, its continuation sheet, SF–272a. The Federal awarding agency shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.

(ii) Federal awarding agencies may require forecasts of Federal cash requirements in the ''Remarks'' section of the report.

(iii) When practical and deemed necessary, Federal awarding agencies may require recipients to report in the ''Remarks'' section the amount of cash advances received in excess of three days. Recipients shall provide short narrative explanations of actions taken to reduce the excess balances.

(iv) Recipients shall be required to submit not more than the original and two copies of the SF–272 15 calendar days following the end of each quarter. The Federal awarding agencies may require a monthly report from those recipients receiving advances totaling $1 million or more per year.

(v) Federal awarding agencies may waive the requirement for submission of the SF–272 for any one of the following reasons:

(A) When monthly advances do not exceed $25,000 per recipient, provided that such advances are monitored through other forms contained in this section;

(B) If, in the Federal awarding agency's opinion, the recipient's accounting controls are adequate to minimize excessive Federal advances; or,

(C) When the electronic payment mechanisms provide adequate data.

(b) When the Federal awarding agency needs additional information or more frequent reports, the following shall be observed.

(1) When additional information is needed to comply with legislative requirements, Federal awarding agencies shall issue instructions to require recipients to submit such information under the ''Remarks'' section of the reports.

(2) When a Federal awarding agency determines that a recipient's accounting system does not meet the standards in Section § 2543.21, additional pertinent information to further monitor awards may be obtained upon written notice to the recipient until such time as the system is brought up to standard. The Federal awarding agency, in obtaining this information, shall comply with report clearance requirements of 5 CFR part 1320.

(3) Federal awarding agencies are encouraged to shade out any line item on any report if not necessary.

(4) Federal awarding agencies may accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(5) Federal awarding agencies may provide computer or electronic outputs to recipients when such expedites or contributes to the accuracy of reporting.

§ 2543.53 Retention and access requirements for records.

(a) This section sets forth requirements for record retention and access to records for awards to recipients. Federal awarding agencies shall not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Federal awarding agency. The only exceptions are the following:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by the Federal awarding agency, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by the Federal awarding agency.

(d) The Federal awarding agency shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate record keeping, a Federal awarding agency may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) The Federal awarding agency, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, no Federal awarding agency shall place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when the Federal awarding agency can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the Federal awarding agency.

(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the recipient submits to the Federal awarding agency or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) If not submitted for negotiation. If the recipient is not required to submit to the Federal awarding agency or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Termination and Evaluation

§ 2543.60 Purpose of termination and enforcement.

Sections § 2543.61 and § 2543.62 set forth uniform suspension, termination and enforcement procedures.

§ 2543.61 Termination.

(a) Awards may be terminated in whole or in part only if:

(1) By the Federal awarding agency, if a recipient materially fails to comply with the terms and conditions of an award,

(2) By the Federal awarding agency with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated, or

(3) By the recipient upon sending to the Federal awarding agency written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency determines in the case of partial termination that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety under either paragraphs (a) (1) or (2) of this section.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in paragraph § 2543.71(a), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

§ 2543.62 Enforcement.

(a) Remedies for noncompliance. If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the Federal awarding agency may, in addition to imposing any of the special conditions outlined in Section § 2543.14, take one or more of the following actions, as appropriate in the circumstances.

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the Federal awarding agency.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Take other remedies that may be legally available.

(b) Hearings and appeals. In taking an enforcement action, the awarding agency shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved.

(c) Effects of suspension and termination. Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(1) The costs result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable, and

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) Relationship to debarment and suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under E.O.s 12549 and 12689 and the Federal awarding agency implementing regulations (see Section § 2543.13).

Subpart D—After-the-Award Requirements

§ 2543.70 Purpose.

Sections § 2543.71 through § 2543.73 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 2543.71 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. The Federal awarding agency may approve extensions when requested by the recipient.

(b) Unless the Federal awarding agency authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) The Federal awarding agency shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated cash that the Federal awarding agency has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A–129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, the Federal awarding agency shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with Sections § 2543.31 through § 2543.37.

(g) In the event a final audit has not been performed prior to the closeout of an award, the Federal awarding agency shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 2543.72 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following:

(1) The right of the Federal awarding agency to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in Section § 2543.26.

(4) Property management requirements in Sections § 2543.31 through § 2543.37.

(5) Records retention as required in Section § 2543.53.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of the Federal awarding agency and the recipient, provided the responsibilities of the recipient referred to in paragraph § 2543.73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 2543.73 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the

recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, the Federal awarding agency may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements,

(2) Withholding advance payments otherwise due to the recipient,

(3) Taking other action permitted by statute, or

(b) Except as otherwise provided by law, the Federal awarding agency shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, ''Federal Claims Collection Standards.''

Subpart E—Statutory Compliance

§ 2543.80 Contract Provisions.

All contracts, awarded by a recipient including small purchases, shall contain the following provisions as applicable:

§ 2543.81 Equal Employment Opportunity.

All contracts shall contain a provision requiring compliance with E.O. 11246, ''Equal Employment Opportunity,'' as amended by E.O. 11375, ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and as supplemented by regulations at 41 CFR part 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

§ 2543.82 Copeland ''Anti-Kickback'' Act.

All contracts and subgrants in excess of $2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States''). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

§ 2543.83 Davis-Bacon Act.

When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR part 5, ''Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction''). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

§ 2543.84 Contract Work Hours and Safety Standards Act.

Where applicable, all contracts awarded by recipients in excess of $2000 for construction contracts and in excess of $2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

§ 2543.85 Rights to Inventions Made Under a Contract or Agreement.

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,'' and any implementing regulations issued by the awarding agency.

§ 2543.86 Clean Air Act and the Federal Water Pollution Control Act.

Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

§ 2543.87 Byrd Anti-Lobbying Amendment.

Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

§ 2543.88 Debarment and Suspension.

No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, ''Debarment and Suspension.'' This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

[FR Doc. 95–5625 Filed 3–9–95; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[ET Docket No. 94–32; FCC 95–47]

Spectrum Below 5 GHz Transferred From Federal Government Use

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This First Report and Order adopts allocations for 50 megahertz of spectrum that has been transferred from Federal Government use to private sector use. This action is necessary to comply with provisions of the Omnibus Budget Reconciliation Act of 1993 (Reconciliation Act) that require the Commission to allocate, and propose regulations to assign, this spectrum within 18 months of adoption of the Reconciliation Act. A companion Notice of Proposed Rule Making, published elsewhere in this issue, proposes rules to govern use of the spectrum allocated in this Report and Order. Our goal in taking this action is to provide for use of spectrum transferred from Federal Government to private sector use in a way that will benefit the public by providing for the introduction of new services and devices and enhance existing services and devices.

EFFECTIVE DATE: April 10, 1995.

FOR FURTHER INFORMATION CONTACT: Steve Sharkey, Office of Engineering and Technology, (202) 739–0723.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order, ET Docket No. 94–32, FCC 95–47, adopted February 7, 1995, and released February 17, 1995. The full text of this First Report and Order is available for inspection during normal business hours in the Records Room of the Federal Communications Commission, room 239, 1919 M St., NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St., NW., suite 140, Washington, DC 20037, telephone (202) 857–3800.

Summary of First Report and Order (R&O)

1. The purpose of this R&O is to adopt allocations for 50 megahertz of spectrum that has been transferred from Federal Government to private sector use as required by the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103–66, Title VI, section 6001(a)(3), 107 Stat. 312 (approved August 10, 1993) (Reconciliation Act).

2. In compliance with the provision of the Reconciliation Act, the Department of Commerce released a report on February 10, 1994, which made a preliminary identification of 200 megahertz of spectrum for reallocation from Federal Government to private sector use, including 50 megahertz at 2390–2400 MHz, 2402–2417 MHz, and 4660–4685 MHz identified for immediate availability. The Reconciliation Act requires that, by February 10, 1995, the Commission allocate, and propose regulations to assign, the 50 megahertz of spectrum that is immediately available. On November 8, 1994, we released a Notice of Proposed Rule Making, 59 FR 59393 (11/17/94), in this proceeding proposing that all 50 megahertz of immediately available spectrum be allocated for Fixed and Mobile service. As an alternative to allocating this spectrum generally for Fixed and Mobile services, the Notice of Proposed Rule Making requested comment on the possible allocation of these bands for specific communications services including an aeronautical audio/visual service to provide real time information and entertainment aboard aircraft, wireless local loop service, broadcast auxiliary services to support advanced television, unlicensed PCS, low-power communications, either on a licensed or unlicensed basis, and continued use of some of this spectrum by the amateur community.

3. Based on the record in this proceeding, the Commission determined that an approach that provides spectrum for both unlicensed devices and Fixed and Mobile services would best serve the public interest. Taking into account the unique nature of some of the bands under consideration, the current communications environment, and the suggestions of the commenting parties, we find it is desirable to allocate 25 megahertz for specific services and devices and 25 megahertz for Fixed and Mobile operations. In particular, we are providing 25 megahertz for use by unlicensed devices and the Amateur service and 25 megahertz for Fixed and Mobile operations. Specifically, we are allocating the 2390–2400 MHz band for use by unlicensed asynchronous Personal Communications Services (PCS) devices, providing for continued use of the 2402–2417 MHz band by devices operating in accordance with Part 15 of our Rules, allocating both of these bands for use by the Amateur service on a primary basis, and allocating the band 4660–4685 MHz for use by Fixed and Mobile services. The 2390–2400 MHz and 2402–2417 MHz bands will be governed by existing applicable rules. In a companion Second Notice of Proposed Rule Making, the Commission proposed rules for use of the 4660–4685 MHz band. The allocations adopted in this Report and Order will benefit the public by providing for the introduction of new services and devices and the enhancement of existing services and devices. These new and enhanced services and uses will create new jobs, foster economic growth, and improve access to communications by industry and the American public.

Final Regulatory Flexibility Analysis

1. Need and purpose of this action: This Report and Order allocates 50 megahertz of spectrum that was transferred from Federal Government to private sector use. Transfer and allocation of this spectrum was required by the Omnibus Budget Reconciliation Act of 1993.

2. Summary of the issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis: There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.

3. Significant alternatives considered: Commenters in this proceeding supported allocating the spectrum under consideration for a number of various services. These services include wireless local loops, a ground-to-air aeronautical audio/video service, mobile satellite service, private services, unlicensed PCS devices, other unlicensed devices, amateur service, interactive data, audio and video services, fixed service, mobile services, and broadcast auxiliary services. This Report and Order considers all of these uses and provides analysis regarding each. As a result of this analysis, the Commission determined that the action taken in this Report and Order would provide the most beneficial use of the spectrum under consideration.

Paperwork Reduction

This proposal has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, disclosure or record retention requirements and will not increase the burden hours imposed on the public.

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 15

Communications equipment, Computer technology, Labeling, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Parts 2 and 15 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303 and 307, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended to read as follows:

a. In the 2390–2450 MHz band and the 4500–4800 MHz band, revise all columns to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
2300–2450	2300–2450	2300–2450	2300–2310	2300–2310		
FIXED.	FIXED.	FIXED.	RADIOLOCATION.	Amateur.	Amateur (97).	
MOBILE.	MOBILE.	MOBILE.	Fixed.			
Amateur.	RADIO-LOCATION.	RADIO-LOCATION.	Mobile.			
Radiolocation.	Amateur.	Amateur.	US253 G2	US253		
			2310–2360	2310–2360		
			Mobile.	BROADCASTING-SATELLITE.		Digital Audio Radio Services.
			Radiolocation.	Mobile.		
			Fixed.	751B US276 US327		
			751B US276 US327			
			US328 G2 G120	US328		
			2360–2390	2360–2390		
			MOBILE.	MOBILE.		
			RADIOLOCATION.			
			Fixed.			
			US276 G2 G120	US276		
			2390–2400	2390–2400	Radio Frequency Devices (15).	
				AMATEUR.	AMATEUR (97)	
			G122			
			2400–2402	2400–2402		
			RADIOLOCATION.	Amateur.	Amateur (97).	
			664 752 G2	664 752		
664 751A 752	664 750B 751 751B 752	664 750B 751 751B 752	2402–2417	2402–2417	AMATEUR (97).	
				AMATEUR.	Radio Frequency Devices (15).	
			664 752 G122	664 752		
			2417–2450	2417–2450		
			RADIOLOCATION.	Amateur.	Amateur (97).	
			664 752 G2	664 752		
*	*	*	*	*	*	*
4500–4800	4500–4800	4500–4800	4500–4660	4500–4660		
			FIXED.	FIXED-SATELLITE (space-to-Earth).		
FIXED.	FIXED.	FIXED.	MOBILE.			
FIXED-SATELLITE (space-to-Earth)	FIXED-SATELLITE (space-to-Earth)	FIXED-SATELLITE (space-to-Earth)	US245	792A US245		
792A.	792A.	792A.	4660–4685	4660–4685		
MOBILE.	MOBILE.	MOBILE.				
				FIXED.		
				FIXED-SATELLITE (space-to-Earth).		
				MOBILE.		
			G122	792A US245		
			4685–4800	4685–4800		
			FIXED.	FIXED-SATELLITE (space-to-Earth).		
			MOBILE.			
			US245	792A US245		
*	*	*	*	*	*	*

b. Government footnote G2 is revised and Government footnote G122 is added to read as follows:

Government (G) Footnotes

* * * * *

G2 In the bands 216–225, 420–450 (except as provided by US 217), 890–902, 928–942, 1300–1400, 2300–2390, 2400–2402, 2417–2450, 2700–2900, 5650–5925, and 9000–9200 MHz, the Government radiolocation is limited to the military services.

* * * * *

G122 The bands 2390–2400, 2402–2417 and 4660–4685 MHz were identified for immediate reallocation, effective August 10, 1994, for exclusive non-Government use under Title VI of the Omnibus Budget Reconciliation Act of 1993. Effective August 10, 1994, any Government operations in these bands are on a non-interference basis to authorized non-Government operations and shall not hinder the implementation of any non-Government operations.

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for Part 15 continues to read as follows:

Authority: Sec. 4, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, 304, and 307.

2. Section 15.301 is revised to read as follows:

§ 15.301 Scope.

This subpart sets out the regulations for unlicensed personal communications services (PCS) devices operating in the 1910–1930 MHz and 2390–2400 MHz frequency bands.

3. Section 15.303 is amended by revising paragraph (g) to read as follows:

§ 15.303 Definitions.

* * * * *

(g) *Personal Communications Services (PCS) Devices [Unlicensed].* Intentional radiators operating in the frequency bands 1910–1930 MHz and 2390–2400 MHz that provide a wide array of mobile and ancillary fixed communication services to individuals and businesses.

* * * * *

4. Section 15.311 is revised to read as follows:

§ 15.311 Labelling requirements.

In addition to the labelling requirements of § 15.19(a)(3), all devices operating in the frequency band 1910–1930 MHz authorized under this subpart must bear a prominently located label with the following statement:

Installation of this equipment is subject to notification and coordination with UTAM, Inc. Any relocation of this equipment must be coordinated through, and approved by UTAM. UTAM may be contacted at [insert UTAM's toll-free number].

5. Section 15.319 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 15.319 General technical requirements.

(a) The 1910–1920 MHz and 2390–2400 MHz bands are limited to use by asynchronous devices under the requirements of § 15.321. * * *

* * * * *

6. Section 15.321 is amended by revising the heading, paragraphs (a) and (b) and the first sentence of paragraph (e) to read as follows:

§ 15.321 Specific requirements for asynchronous devices operating in the 1910–1920 MHz and 2390–2400 MHz bands.

(a) Operation shall be contained within either or both of the 1910–1920 MHz and 2390–2400 MHz bands. The emission bandwidth of any intentional radiator operating in these bands shall be no less than 500 kHz.

(b) All systems of less than 2.5 MHz emission bandwidth shall start searching for an available spectrum window within 3 MHz of the band edge at 1910, 1920, 2390, or 2400 MHz while systems of more than 2.5 MHz emission bandwidth will first occupy the center half of the band. Devices with an emission bandwidth of less than 1.0 MHz may not occupy the center half of the band if other spectrum is available.

* * * * *

(e) The frequency stability of the carrier frequency of intentional radiators operating in accordance with this section shall be ±10 ppm over 10 milliseconds or the interval between channel access monitoring, whichever is shorter. * * *

* * * * *

[FR Doc. 95–5382 Filed 3–9–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Parts 209 and 252

Defense Federal Acquisition Regulation Supplement; Institutions of Higher Education

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for public comments.

SUMMARY: The Director of Defense Procurement is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to preclude award of contracts to, or consent to subcontracts with institutions of higher education which have been determined to have a policy of denying, or effectively preventing the Secretary of Defense from obtaining for military recruiting purposes entry to campuses, access to students on campus, or access to directory information pertaining to students. The rule also requires that departments and agencies shall make no further payments under existing contracts and shall initiate termination action if institutions are determined to have such a policy.

DATES: *Effective Date:* March 6, 1995.

Comment Date: Comments on the interim rule should be submitted to the address shown below on or before May 9, 1995 to be considered in formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to The Defense Acquisition Regulations Council, ATTN: Ms. Linda Holcombe, PDUSD (A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, D.C. 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 94–D310 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Linda S. Holcombe, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

Section 558 of the National Defense Authorization Act for Fiscal year 1995 (Pub. L 103–337) provides that no funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that either (1) has a policy of denying, or (2) effectively prevents the Secretary of Defense from obtaining for military recruiting purposes entry to campuses, access to students on campuses, or access to directory information pertaining to students.

This interim rule establishes a requirement for all solicitations and contracts with institutions of higher education to include a clause which requires the contractor to represent that it does not now have and will not in the future adopt a policy of denying or effectively preventing the Secretary of Defense from obtaining for military recruiting purposes entry to their campuses, access to students on campuses, or access to directory information pertaining to their students. Institutions found to have such policies are ineligible for contract award and payments under existing contracts. In addition, the Government shall terminate the contract for the contractor's material failure to comply with the terms and conditions of award.

B. Regulatory Flexibility Act

The interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule restricts agencies from soliciting offers from, awarding contracts to, or consenting to subcontracts with institutions of higher education which are determined to have a policy of denying, or effectively preventing, the Secretary of Defense from obtaining for military recruiting purposes entry to campuses, access to students on campuses, or access to directory information pertaining to students. In addition, the interim rule requires that departments and agencies shall make no further payments under existing contracts and shall initiate termination action if institutions are determined to have such a policy. A copy of the Initial Regulatory Flexibility Analysis has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Initial Regulatory Flexibility Analysis may be obtained from Ms. Linda Holcombe, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, D.C. Comments are invited. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 94–D310 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 209 and 252

Government procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 209 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 209 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 209—CONTRACTOR QUALIFICATIONS

2. Subpart 209.4 is amended to add Sections 209.470, 209.470–1, 209.470–2, and 209.470–3 as follows:

Subpart 209.4—Debarment, Suspension, and Ineligibility

* * * * *

209.470 Military recruiting on campus.

209.470–1 Policy.

(a) Section 558 of the National Defense Authorization Act for Fiscal Year 1995 (Pub. L. 103–337), provides that no funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that either—

(1) Has a policy of denying—

(i) Entry to campuses or access to students on campus; or

(ii) Access to directory information pertaining to students; or

(2) Effectively prevents the Secretary of Defense from obtaining for military recruiting purposes—

(i) Entry to campuses or access to students on campus; or

(ii) Access to directory information pertaining to students.

(b) Institutions of higher education that are determined under the procedures prescribed by the Secretary of Defense to have the policy or practice in paragraph (a) of this subsection shall be listed as ineligible on the list of Parties Excluded From Federal Procurement Programs published by the General Services Administration (GSA). (See FAR 9.404).

209.470–2 Procedures.

(a) Agencies shall not solicit offers from, award contracts to, or consent to subcontracts with ineligible contractors.

(b) After a determination of ineligibility, departments and agencies shall make no further payments under existing contracts with the institutions, and shall initiate termination action.

209.470–3 Contract clause.

Use the clause at 252.209–7007, Military Recruiting on Campus, in all solicitations and contracts with institutions of higher education.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.209–7007 is added to read as follows:

252.209–7007 Military Recruiting on Campus

As prescribed in 209.470–3, use the following clause:

Military Recruiting on Campus (Mar 1995)

(a) *Definitions.* ''Directory information,'' as used in this clause, means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student. Students are individuals who are 17 years of age or older.

(b) *General.* An institution of higher education that has been determined, using procedures established by the Secretary of Defense to implement section 558 of Pub. L. 103–337 (1994): (1) To have a policy of denying, or (2) to prevent effectively the Secretary of Defense from obtaining for military recruiting purposes entry to their campuses, access to students on campuses, or access to directory information pertaining to students, access to students on campuses, is ineligible for contract award and payments under existing contracts. In addition, the Government shall terminate this contract for the contractor's material failure to comply with the terms and conditions of award.

(c) *Agreement.* The contractor represents that it does not now have and agrees that during performance of this contract it will not adopt a policy of denying, and that it does not, is not, and will not during performance of the contract, effectively prevent the Secretary of Defense from obtaining for military recruiting purposes entry to campuses, access to students on campuses, or access to directory information pertaining to students.

(End of clause)

[FR Doc. 95–5958 Filed 3–9–95; 8:45 am]

BILLING CODE 5000–04–M

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48 CFR Part 219

Defense Federal Acquisition Regulation Supplement; Subcontracting Plans

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comment.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to extend the authority through September 30, 1997, for contractors to claim credit towards their small business subcontracting goals for subcontracts with qualified nonprofit agencies for the blind and severely disabled.

DATES: *Effective date:* February 27, 1995.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before May 9, 1995, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: LTC Edward C. King Jr, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 94–D312 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: LTC Edward C. King Jr, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

Section 804 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337) extends the authority through September 30, 1997, for contractors to claim credit towards their small business subcontracting goals for subcontracts with qualified nonprofit agencies for the blind and severely disabled. DFARS Subpart 219.7 is amended to permit contractors to receive credit when awarding subcontracts to such entities.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only applies to large business concerns. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected subpart will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 94–D312 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act applies. Information collection requirements imposed by this rule were cleared under OMB control number 9000–0007 for Standard Form 295, Summary Subcontract Report.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Compelling reasons exist to promulgate this rule as an interim rule as it is necessary to authorize prime contractors to receive credit toward their subcontracting goals as permitted by Section 804 of Pub. L. 103–337. However, comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Part 219

Government procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 219 is amended as follows:

1. The authority citation for 48 CFR part 219 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

2. Section 219.703 is amended by revising paragraph (a) introductory text to read as follows:

219.703 Eligibility requirements for participating in the program.

(a) Qualified nonprofit agencies for the blind and other severely disabled, that have been approved by the Commission for Purchase from People Who Are blind or Severely Disabled under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48), are eligible as a result of Section 9077 of Pub. L. 102–396, and subsequent Appropriations Acts, and Sections 808 of Pub. L. 102–484 and 804 of Pub. L. 103–377 through September 30, 1997, to participate in the program. Under this authority, subcontracts awarded to such entities may be counted toward the prime contractor's small business subcontracting goal through fiscal year 1997.

* * * * *

[FR Doc. 95–5959 Filed 3–9–95; 8:45 am]

BILLING CODE 5000–04–M

48 CFR Parts 223 and 252

Defense Federal Acquisition Regulation Supplement; Hazardous Materials

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add an exception to the statutory prohibition on storage and disposal of non-DoD-owned toxic and hazardous materials at military installations.

DATES: *Effective Date:* March 6, 1995.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before May 9, 1995, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: LTC Edward C. King Jr., PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, D.C. 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 94–D309 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: LTC Edward C. King Jr, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

Section 325 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337) amends 10 U.S.C. 2692 to add an exception to the prohibition on storage and disposal of non-DoD-owned toxic and hazardous materials at military installations. DFARS Subpart 223.71 and the clause at 252.223–7006 are amended to add the exception in all solicitations and contracts which require, may require, or permit contractor performance on a DoD installation.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because of the limited applicability of the rule to industrial-type facilities located on military installations. An initial regulatory flexibility analysis has therefore not been performed. Comments from small entities concerning the affected subpart and clause will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 94–D309 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Compelling reasons exist to promulgate this rule as an interim rule without prior opportunity for public comments because it is necessary to add the exception authorized by Section 325 of Pub. L. 103–337. However, comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Part 223 and 252

Government Procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 223 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 223 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Section 223.7102 is amended by adding paragraph (a)(9) to read as follows:

§ 223.7102 Exceptions.

(a) * * *

(9) The treatment and disposal of any non-DoD-owned material if the Secretary of the military department concerned—

(i) Determines that the material is required or generated by a private person in connection with the authorized and compatible commercial use by that person of an industrial-type facility of that military department; and

(ii) Enters a contract with that person that—

(A) Is consistent with the best interest of national defense and environmental security; and

(B) Provides for that person's continued financial and environmental responsibility and liability with regard to the material.

* * * * *

3. Section 223.7103 is revised to read as follows:

223.7103 Contract clause.

(a) Use the clause at 252.223–7006, Prohibition on Storage and Disposal of Toxic and Hazardous Materials, in all solicitations and contracts which require, may require, or permit contractor performance on a DoD installation.

(b) Use the clause at 252.223–7006 with its Alternate I, when the Secretary of the military department issues a determination under the exception at 223.7102(a)(9).

3. Section 252.223–7006 is amended by revising the introductory text and by adding an Alternate I to read as follows:

252.223–7006 Prohibition on storage and disposal of toxic and hazardous materials.

As prescribed in 223.7103(a), use the following clause:

* * * * *

Alternate I (Mar 1995)

As prescribed in 223.7103(b), add the following paragraphs (c) and (d) to the basic clause:

(c) With respect to treatment or disposal authorized pursuant to 10 U.S.C. 2692(b)(9), and notwithstanding any other provision of the contract, the Contractor assumes all financial and environmental responsibility and liability resulting from any treatment or disposal of non-DoD-owned toxic or hazardous material on a military installation. The Contractor shall indemnify, defend, and hold the Government harmless for all costs, liability, or penalties resulting from the Contractor's treatment or disposal of non-DoD-owned toxic or hazardous materials on a military installation.

(d) The Contractor shall include this clause, including this subparagraph (d) in each subcontract.

[FR Doc. 95–5957 Filed 3–9–95; 8:45 am]

BILLING CODE 5000–04–M

48 CFR Part 235

Defense Federal Acquisition Regulation Supplement; Federally Funded Research and Development Centers

AGENCIES: Department of Defense (DoD)

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to allow DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology.

DATES: Effective date: March 3, 1995.

Comment date: Comments on the interim rule should be submitted in writing at the address shown below on or before May 9, 1995, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulation Council, ATTN: Mr. R.G. Layser, PDUSD(A&T)DP/DAR, IMD 3D139, 3062 Defense Pentagon, Washington, D.C. 20301–3062. Telefax Number (703) 602–0350. Please cite DFARS Case 94–D306 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

Section 217 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) allows DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology. This interim DFARS rule implements this allowance.

B. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Compelling reasons exist to promulgate this rule without prior opportunity for public comment because Section 217 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) became effective upon enactment of the Act, October 5, 1994. This interim rule is necessary to ensure that DoD contracting activities become aware of the statutory allowance of DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology. However, comments received in response to the publication of this rule will be considered in formulating the final rule.

C. Regulatory Flexibility Act

The proposed changes to DFARS Part 217, are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule allows a very limited number of FFRDCs to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology. The rule is expected to benefit small entities involved in technology research, development, demonstration or transfer who can establish teaming arrangements with FFRDCs. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address stated herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration.

D. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because this

rule does not impose any new recordkeeping, information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR part 235

Government procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 235 is amended as follows:

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

1. The authority citation for 48 CFR Part 235 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 235.017–1 is added to read as follows:

§ 235.017–1 Sponsoring agreements.

(c)(4) DoD-sponsored FFRDCs that function primarily as research laboratories may respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology (Section 217, Pub. L. 103–337).

[FR Doc. 95–5956 Filed 3–9–95; 8:45 am]

BILLING CODE 5000–04–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1312 and 1314

[Ex Parte No. 444]

Electronic Filing of Tariffs

AGENCY: Interstate Commerce Commission (ICC).

ACTION: Final rule.

SUMMARY: The ICC amends its regulations to reflect the *status quo* with respect to the rules for filing electronic and printed tariffs, and terminates the Ex Parte No. 444 proceeding. This action codifies in the regulations the tariff filing rules which have existed for the past five years as a result of the partial stay of the Commission's 1989 decision in Ex Parte No. 444, and ends the proceeding.

EFFECTIVE DATES: The amendments in this final rule are effective April 8, 1995. Effective April 8, 1995, the rule removing part 1312, which was published at 54 FR 6404 and stayed at 54 FR 10533 and 54 FR 42959, is withdrawn and part 1312 continues in effect. The effective date of part 1314, which was added at 54 FR 6404 and stayed at 54 FR 10533 and 54 FR 42959, is November 8, 1989.

FOR FURTHER INFORMATION CONTACT: James W. Greene, (202) 927–5602, or Thomas A. Mongelli, (202) 927–5150. TDD for the hearing impaired: (202) 927–5721.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPR) served December 15, 1994, and published at 59 FR 64646 (1994), we proposed to amend parts 1312 and 1314 of our regulations to codify the tariff filing rules which have been in effect for the past five years as a result of a partial stay of an earlier Commission decision,[1] and to terminate the Ex Parte No. 444 proceeding. The current rules authorize electronic tariff filing by rail carriers but not by other carriers; in the NPR we indicated our willingness to consider individual special tariff authority requests for electronic filing by non-rail carriers. Comments were filed by two interested parties,[2] both of which support the Commission's proposal.

HGCBC states that, although it understands the reasons for and supports the Commission's decision, it is disappointed in the termination of the effort to develop methods and standards for filing electronic tariffs. HGCBC believes that electronic tariff filing has merit, and it indicates its willingness to assist the Commission in a renewed effort to develop an electronic tariff filing system if circumstances change.

NITL strongly endorses the Commission's proposal. NITL states that it has participated in the Ex Parte No. 444 proceeding from the beginning, and that its position throughout the proceeding has been that, if tariff filing is to be retained, tariff filing rules must promote efficient and simple tariff use. NITL expresses its view that the enactment of the Trucking Industry Regulatory Reform Act of 1994 (TIRRA) has eliminated the need for electronic tariff filing, and that the likelihood of further statutory changes to tariff filing requirements makes it unnecessary to expend limited resources on this issue at this time.

After careful consideration, we have decided to amend the regulations and terminate the proceeding as proposed.[3]

Regulatory Flexibility

The rules adopted herein do not impose additional burdens on tariff filers or others; rather, they merely codify the rules that are currently in effect as a result of the partial stay of an earlier Commission decision.

Environmental Statement

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1312

Household goods freight forwarders, Motor carriers, Moving of household goods, Pipelines, Tariffs, Water carriers.

49 CFR Part 1314

Railroads, Tariffs.

Decided: February 17, 1995.

By the Commission, Chairman McDonald, Vice Chairman Morgan, Commissioners Simmons and Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, parts 1312 and 1314 of the Code of Federal Regulations are amended as follows:

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS OF MOTOR, PIPELINE AND WATER CARRIERS, AND HOUSEHOLD GOODS FREIGHT FORWARDERS

1. The heading of part 1312 is revised to read as set forth above.

2. The authority citation for part 1312 continues to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 10321, 10762 and 10767.

PART 1314—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS AND RELATED DOCUMENTS OF RAIL CARRIERS

3. The heading of part 1314 is revised to read as set forth above.

4. The authority citation for part 1314 is revised to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 10321, 10708, 10761, and 10762.

[FR Doc. 95–5943 Filed 3–9–95; 8:45 am]

BILLING CODE 7035–01–P

[1] *Electronic Filing of Tariffs*, 5 I.C.C.2d 279 (1989); 54 FR 6403 and 9052 (1989).

[2] The Household Goods Carriers' Bureau Committee (HGCBC), and The National Industrial Transportation League (NITL). The Association of American Railroads and each Class I Railroad, while not filing formal comments, submitted a letter indicating that they did not object to the course of action outlined in the NPR.

[3] We will correct the heading of part 1312 to include reference to household goods freight forwarders, which was inadvertently omitted from the proposed rule.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 950306066–5066–01; I.D. 111594A]

RIN 0648–AH46

Northeast Multispecies Fishery; Emergency Interim Rule Extension and Amendment to Allow Vessel Transitting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; amendment and extension of effectiveness.

SUMMARY: An emergency interim rule, as amended, in effect through March 12, 1995, is extended from March 13, 1995, through June 10, 1995, because conditions warranting the emergency rule still exist. This rule also amends the emergency interim rule to allow vessels to transit closed areas, provided that there is a demonstrable safety reason and fishing gear is properly stowed. The intent of this extension and amendment is to provide interim protection to various multispecies finfish stocks, especially haddock, cod, and yellowtail flounder while a more comprehensive set of management measures is developed to protect and begin rebuilding abundance levels of these species.

EFFECTIVE DATE: These amendments are effective March 13, 1995, through June 10, 1995. The emergency interim regulations published at 59 FR 63926, December 12, 1994, and amended at 60 FR 3102, January 13, 1995, in effect through March 12, 1995, are extended from March 13, 1995, through June 10, 1995.

ADDRESSES: Copies of the Environmental Assessment (EA) supporting this action may be obtained from Jon C. Rittgers, Acting Regional Director, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, Northeast Region, NMFS, 508–281–9252.

SUPPLEMENTARY INFORMATION: Under section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), NMFS promulgated an emergency interim rule (59 FR 63926, December 12, 1994) that implemented protective measures for multispecies finfish for the period December 12, 1994, through March 12, 1995. The emergency interim rule implemented: (1) A simultaneous closure of redefined Closed Area I, the Nantucket Lightship Closed Area, and Closed Area II; (2) a prohibition on scallop vessels in the closed areas; (3) a disallowance of any fishery utilizing mesh smaller than the minimum mesh size allowed for regulated species, with the exception of fisheries that have been determined to have a catch of less than 5 percent by weight of regulated species; (4) a prohibition on the possession of regulated species while fishing with small mesh; (5) a requirement that all mobile gear vessels fishing in the Stellwagen Bank and Jeffreys Ledge areas, with the exception of mid-water trawl and purse seine vessels, use 6–inch (15.24–cm) square mesh codends; and (6) an increase in the minimum mesh size in the Southern New England and Nantucket Lightship Regulated Mesh Areas to 6–inch (15.24–cm) diamond or square mesh.

An amendment to the December 12, 1994, emergency interim rule (60 FR 3102, January 13, 1995) made several modifications and clarifications, beginning January 10, 1995. That amendment, among other things, added allowable bycatch species to the exempted fisheries as defined in the December 12 emergency interim rule, allowed a bycatch fishery for longhorn sculpin in the Northern Shrimp Exemption Area, and allowed transitting in Closed Area I and the Nantucket Lightship Closed Area for vessels seeking safe haven.

At the request of NMFS, the New England Fishery Management Council (Council) is preparing a Framework Adjustment (Framework Adjustment 9) to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) to implement these emergency measures on a permanent basis while a more comprehensive FMP amendment (Amendment 7) to address the long-term objective of stock rebuilding is developed. On February 15, 1995, the Council voted to recommend extension of the emergency interim rule, as amended, for an additional 90 days as provided for in the Magnuson Act. NMFS agrees with the recommendation, because conditions warranting the emergency rule still exist. Therefore, under provisions of section 305(c)(3)(B) of the Magnuson Act, NMFS extends the emergency interim rule, as amended, an additional 90 days, through June 10, 1995.

Since Amendment 6 to the FMP (59 FR 32134, June 22, 1994) extended the timeframe for closure of Closed Area II through June of each year, extension of the Closed Area II provisions of the December 12 emergency rule has no impact on the fishery. However, the provisions in § 651.21(d)(2) are extended for simplicity and revised to reflect U.S. Coast Guard policy as discussed below.

In § 651.21, paragraphs (d)(1), (2), and (3) are amended to reflect current U.S. Coast Guard policy that allows a fishing vessel to transit closed areas, provided that the vessel operator has a compelling and demonstrable safety reason and provided that the vessel's fishing gear is properly stowed. Paragraph (d)(1)(iv) is added to § 651.21 as a stowage provision for hook gear vessels using gear other than pelagic hook gear.

Classification

The Assistant Administrator, NOAA, finds that good cause exists under 5 U.S.C. 553(b)(B) to waive the requirements to provide prior notice and opportunity for public comment for the amendments to the interim emergency rule made by this action because they are made to reflect current U.S. Coast Guard practices and providing opportunity for public comment would serve no useful purpose. The changes made by the amendment portion of this action were in response to public comments received by the Council at two of its recent meetings since the original emergency rule action first became effective. Further, because the amendment to the emergency rule contained in this action relieves a regulatory restriction under 5 U.S.C. 553(d)(1), it is not subject to a 30-day delay in effective date. This action has been determined to be not significant under E.O. 12866.

This rule is exempt from procedures of the Regulatory Flexbility Act to prepare a regulatory flexibility analysis because the rule is issued without opportunity for prior public comment. No analysis has been prepared.

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 7, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 651 is amended as follows:

PART 651—NORTHEAST MULTISPECIES FISHERY

1. The authority citation for part 651 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Regulations published at 59 FR 63926, December 12, 1994, effective December 12, 1994, through March 12, 1995, and amended at 60 FR 3102, January 13, 1995, effective January 10, 1995, through March 12, 1995, are extended from March 13, 1995, through June 10, 1995.

3. In § 651.21, as temporarily amended at 59 FR 63926, December 12, 1994, and 60 FR 3102, January 13, 1995, paragraphs (d)(1)(ii)(B), (d)(2)(ii)(B), and (d)(3)(ii)(C) are revised, and (d)(1)(iv) is added, effective March 13, 1995, through June 10, 1995, to read as follows (Note: § 651.20(a)(b), and (c) are temporarily suspended through June 10, 1995; § 651.20(d), as amended, remains temporarily added, through June 10, 1995):

§ 651.21 Closed areas.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(B) Transitting for compelling safety reasons, as determined by the fishing vessel operator, provided that fishing net gear is stowed in accordance with § 651.20(c)(7), and scallop dredge gear and hook gear is stowed in accordance with paragraphs (d)(1)(iii) and (iv) of this section. A fishing vessel operator that cannot demonstrate a compelling safety reason for being in the closed area shall be subject to enforcement action.

* * * * *

(iv) Hook gear vessels using gear other than pelagic hook gear and transitting closed areas as specified under paragraphs (d)(1), (2), and (3) of this section may not have fishing gear available for immediate use and must secure all anchors and buoys, and have all hook gear, including jigging machines, covered.

(2) * * *

(ii) * * *

(B) Transitting for compelling safety reasons, as determined by the fishing vessel operator, provided that fishing net gear is stowed in accordance with § 651.20(c)(7), and scallop dredge gear and hook gear is stowed in accordance with paragraphs (d)(1)(iii) and (iv) of this section. A fishing vessel operator that cannot demonstrate a compelling safety reason for being in the closed area shall be subject to enforcement action.

(3) * * *

(ii) * * *

(C) Transitting for compelling safety reasons, as determined by the fishing vessel operator, provided that fishing net gear is stowed in accordance with § 651.20(c)(7), and scallop dredge gear and hook gear is stowed in accordance with paragraphs (d)(1)(iii) and (iv) of this section. A fishing vessel operator that cannot demonstrate a compelling safety reason for being in the closed area shall be subject to enforcement action.

[FR Doc. 95–5999 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 030695D]

Groundfish of the Gulf of Alaska; Pacific Cod in the Western Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the allocation of Pacific cod for the offshore component in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 7, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B), the allocation of Pacific cod for the offshore component in the Western Regulatory Area was established by the final groundfish specifications (60 FR 8470, February 14, 1995), as 2,010 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the allocation of Pacific cod total allowable catch for the offshore component in the Western Regulatory Area soon will be reached. The Regional Director established a directed fishing allowance of 1,510 mt, with consideration that 500 mt will be taken as incidental catch in directed fishing for other species in the Western Regulatory Area. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by operators of vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 6, 1995.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–5987 Filed 3–7–95; 2:29 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 47
Friday, March 10, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

[Docket No. A0–150–A6; FV–92–945–2]

Irish Potatoes Grown In Certain Designated Counties In Idaho, and Malheur County, Oregon; Secretary's Decision and Referendum Order on Proposed Further Amendment of Marketing Agreement and Order No. 945

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes amendments to the subject marketing agreement and order (order) and provides potato producers with the opportunity to vote in a referendum to determine if they favor the proposed amendments. The proposed amendments were submitted by the Idaho-Eastern Oregon Potato Committee (committee), the agency responsible for local administration of the order. The proposed changes would include authority to: regulate shipments of potatoes within the production area, change representation and quorum procedures of the committee, set container marking and labeling requirements, and require the committee to consider, at least every six years, changes in committee size or reapportionment of committee membership. Also, other proposals would change committee fiscal operations, add confidentiality and verification provisions to the order, and make other miscellaneous changes that would be consistent with the proposed amendments. These changes are being proposed to improve order operations.

DATES: The referendum shall be conducted from April 3 through April 17, 1995. The representative period for the purpose of the referendum herein ordered is August 1, 1993, through July 31, 1994.

FOR FURTHER INFORMATION CONTACT: Valerie L. Emmer or Jim Wendland, Marketing Specialists, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, D.C. 20090–6456, telephone: 202–205–2829 or 720–2170 respectively, or Fax 202–720–5698; or Gary Olson, OIC, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW. Third Avenue, room 369, Portland, Oregon, 97204; telephone: 503–326–2725, or Fax 503–326–7440.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on August 3, 1993, and published in the **Federal Register** on August 11, 1993 (58 FR 42696). Recommended Decision and Opportunity to File Written Exceptions issued on November 23, 1994, and published in the **Federal Register** on November 30, 1994 (59 FR 61286).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Preliminary Statement

The proposed amendments were formulated on the record of a public hearing held in Idaho Falls, Idaho, on September 8, 1993, to consider the proposed amendment of the Marketing Agreement and Order No. 945, regulating the handling of potatoes grown in designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to collectively as the ''order.'' The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR part 900). The Notice of Hearing contained several amendment proposals submitted by the Idaho-Eastern Oregon Committee (committee) established under the order to assist in local administration of the program.

The proposals would: (1) Redefine ''ship or handle'' to include shipments of potatoes within the production area; (2) provide seed producers with representation on the committee and add authority for the committee to recommend to the Secretary changes in the committee size and composition; (3) update ''districts'' to show the current composition; (4) require the committee to consider, at least every six years, whether to recommend changes in committee size or reapportionment of committee membership; (5) change committee quorum procedures; (6) remove an outdated assessment limitation of $1 per carload and allow the committee to impose late payment or interest fees, or both, on late assessment payments, accept advance payments, and borrow monies in an extreme emergency for program administration; (7) add authority for the committee to recommend container marking and labeling requirements; and (8) specify confidentiality requirements for handler reports submitted to the committee. The Department of Agriculture proposed authority for adding requirements regarding verification of reports and to make any necessary conforming changes.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service (AMS) on November 30, 1994, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by December 30, 1994. None were filed.

Small Business Considerations

In accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities. Small agricultural service firms, which include handlers regulated under this order, have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $5,000,000. Small agricultural producers are defined as those having annual receipts of less than $500,000.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders and rules issued thereunder are unique in that they are

brought about through group action of essentially small entities acting on their own behalf. Thus, both the RFA and the Act have small entity orientation and compatibility. Interested persons were invited to present evidence at the hearing on the probable impact that the proposed amendments to the order would have on small businesses.

During the 1992–93 crop year, 66 handlers were regulated under Marketing Order No. 945. In addition, there are about 2,200 producers of potatoes in the production area. The Act requires the application of uniform rules on regulated handlers. Since handlers covered under the potato marketing order are predominantly small businesses, the order itself is tailored to the size and nature of these small businesses. Marketing orders and amendments thereto, are unique in that they are normally brought about through group action of essentially small entities for their own benefit. Thus, both the RFA and the Act are compatible with respect to small entities.

The proposed amendments to the marketing agreement and order include amending: § 945.20 Establishment and membership pertaining to operations of the committee, including providing seed producers representation on the committee; § 945.23 Redistricting and reapportionment authorizing changes in committee size, composition, and representation; § 945.30 Procedure regarding quorum requirements; and § 945.42 Assessments removing a $1 per carload maximum assessment rate and allowing the committee to impose late payment and interest fees on late assessment payments and borrow monies in an extreme emergency for program administration. These proposed amendments would provide an opportunity for a broader based representation on the committee and more flexibility to adjust to future changes in industry structure, potato production and financial operations. These changes are designed to enhance the administration and functioning of the order and would have negligible, if any, economic impact on small businesses.

The proposal amending § 945.9 Ship or handle would revise the definition of these terms to include the handling of potatoes in the current of commerce within the counties covered by the order's production area, broadening the scope of the order. This would require all regulated shipments of potatoes for fresh market to be inspected and meet order requirements, including grade, size, quality, pack, and payment of assessments. This proposal would improve the market for potatoes handled within the production area. This would benefit both producers and handlers because minimum grade, size and quality requirements established under the order are important to the industry in fostering consumer satisfaction, increasing the demand for Idaho-Eastern Oregon potatoes, and improving industry returns; and the additional assessment income would improve the financial operations of the order. Any added burden on small businesses should be outweighed by the added benefits accruing to them.

The proposed change to allow the rate of assessment to be based on a hundredweight of potatoes rather than an outdated maximum amount of $1 per railroad carload would improve the financial operations of the order and not adversely impact small businesses. This change would provide more efficient funding of order operations and activities. Fresh potato shipments have stabilized in recent years and the current maximum rate specified will likely not be sufficient to properly fund committee operating costs beyond the next few years if costs continue to rise.

Another recommended change would amend § 945.52 Issuance of regulations to add authority to require accurate and uniform marking and labeling of the containers in which production area potatoes are shipped. The benefits of the expected higher returns that could result from increases in buyer and consumer satisfaction due to accurate marking and labeling should outweigh any potential burden on small businesses.

Another proposed amendment, to § 945.80 Reports, would provide confidentiality requirements for reports submitted to the committee. This would safeguard handlers' proprietary information, including that for small businesses, without imposing any burden on them. Additionally, new § 945.80 provisions would add authority for the Secretary and the committee to verify the correctness of reports filed by handlers, and to verify handler compliance with recordkeeping requirements. The requirement would not have a significant impact on small entities in the industry.

The proposal to make other miscellaneous changes that would be consistent with the proposed amendments is necessary so that all sections of the order would be consistent if any or all of the amendments are adopted. These changes include deleting and redesignating certain sections of the order.

All these changes are designed to enhance the administration and functioning of the marketing agreement and order to the benefit of the industry. Accordingly, it is determined that the proposed revisions of the order would not have a significant economic impact on handlers or producers.

The amendments proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the amendments.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the reporting and recordkeeping provisions that are included in the proposed amendments will be submitted to the Office of Management and Budget (OMB). They would not become effective prior to OMB approval.

Findings and Conclusions and Rulings on Exceptions

The material issues, findings and conclusions, rulings, and general findings and determinations included in the Recommended Decision set forth in the November 30, 1994, issue of the **Federal Register** (59 FR 61286) are hereby approved and adopted without change.

Marketing Agreement and Order

Annexed hereto and made a part hereof is the document entitled ''Order Amending the Order Regulating the Handling of Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon.'' This document has been decided upon as the detailed and appropriate means of

effectuating the foregoing findings and conclusions.

It is hereby ordered, That this entire decision be published in the **Federal Register**.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR part 900.400 *et seq.*) to determine whether the issuance of the annexed order amending the order regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon, is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1993, through July 31, 1994.

The agents of the Secretary to conduct such referendum are hereby designated to be Valerie L. Emmer and Jim Wendland, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Washington, D.C. 20250–6456, telephone 202–475–3920 and 720–2170, respectively; and Gary D. Olson, Officer-in-Charge, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, room 369, Portland, Oregon 97204, telephone: 503–326–2725.

List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

Dated: March 2, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

Order Amending the Order Regulating the Handling of Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon[1]

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings and Determinations Upon the Basis of the Hearing Record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to the Marketing Agreement and Order No. 945 (7 CFR part 945), regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The order, as amended, as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The order, as amended, as hereby proposed to be further amended, regulates the handling of Irish potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing order upon which hearings have been held;

(3) The order, as amended, as hereby proposed to be further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The order, as amended, as hereby proposed to be further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of potatoes grown in the production area; and

(5) All handling of potatoes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, all handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon, shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing agreement and the order amending the order contained in the Recommended Decision issued by the Administrator on November 23, 1994, and published in the **Federal Register** on November 30, 1994, shall be and are the terms and provisions of this order amending the order and are set forth in full herein.

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 945 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 945.9 is revised as follows:

§ 945.9 Ship or handle.

Ship or *handle* means to pack, sell, consign, transport or in any other way to place potatoes grown in the production area, or cause such potatoes to be placed, in the current of commerce within the production area or between the production area and any point outside thereof, so as to directly burden, obstruct, or affect any such commerce: *Provided*, That the definition of *ship* or *handle* shall not include the transportation of ungraded potatoes within the production area for the purpose of having such potatoes stored or prepared for market, except that the committee may impose safeguards pursuant to § 945.53 with respect to such potatoes.

3. Section 945.20 is amended by revising paragraph (a) and adding a new paragraph (d) to read as follows:

§ 945.20 Establishment and membership.

(a) The Idaho-Eastern Oregon Potato Committee is hereby established consisting of eight members, of whom four shall currently be producers of potatoes for the fresh market who produced such potatoes during at least three of the last five years; at least one member shall be a producer predominately of potatoes for seed during a similar period; and three shall be handlers. For each member of the committee, there shall be an alternate who shall have the same qualifications as the member. The number of producer and/or handler members and alternates on the committee may be increased and the composition of the committee between producers and handlers may be changed as provided in § 945.23.

* * * * *

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(d) At least every six years, the committee shall review committee size, composition, and representation and recommend to the Secretary whether changes should be made, as provided in § 945.23.

4. Sections 945.22 through 945.24 are revised to read as follows:

§ 945.22 Districts.

For the purpose of selecting committee members and alternate members, the following districts of the production area are hereby established: *Provided*, That these districts may be changed as provided in § 945.23.

(a) *District No. 1*: The counties of Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton;

(b) *District No. 2*: The counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, and Power; and

(c) *District No. 3*: Malheur County, Oregon, and the remaining designated counties in Idaho included in the production area, and not included in District No. 1 or District No. 2.

§ 945.23 Redistricting and reapportionment.

(a) The Secretary, upon recommendation of the committee, may reestablish districts within the production area, may reapportion committee membership among the various districts, may increase the number of producer and/or handler members and alternates on the committee, and may change the composition of the committee by changing the ratio between producer and handler members, including their alternates. At least every six years, the committee shall review committee size, composition and representation and recommend to the Secretary whether changes should be made. In recommending any such changes, the committee shall give consideration to:

(1) Shifts in potato acreage within districts and within the production area during recent years;

(2) the importance of new potato production in its relation to existing districts;

(3) the equitable relationship between committee membership and districts;

(4) economies to result for producers in promoting efficient administration due to redistricting or reapportionment of members within districts; and

(5) other relevant factors.

(b) Membership of the committee shall be apportioned among the districts of the production area so as to provide the following representation or such other representation as recommended by the committee and approved by the Secretary:

(1) Three producer members, including at least one who predominately produces seed potatoes, and one handler member, with their respective alternates, from District No. 1;

(2) One producer member and one handler member, with their respective alternates, from District No. 2; and

(3) One producer member and one handler member, with their respective alternates, from District No. 3.

§ 945.24 Selection.

Members and alternates of the committee shall be selected by the Secretary on the basis specified in § 945.23 (b) from nominations made pursuant to § 945.25 or from other eligible persons.

5. In § 945.30, paragraph (a) is revised to read as follows:

§ 945.30 Procedure.

(a) A simple majority of all members of the committee, including alternates acting for members, shall be necessary to constitute a quorum or to pass any motion or approve any committee action, except any motion regarding a change in committee size shall require a unanimous vote. At any assembled meeting, all votes shall be cast in person.

* * * * *

6. In § 945.42, paragraph (b) is revised and new paragraphs (d) and (e) are added to read as follows:

§ 945.42 Assessments.

* * * * *

(b) Assessments shall be levied upon handlers at a rate per hundredweight of potatoes or equivalent established by the Secretary. Such rate may be established upon the basis of the committee's budget recommendations, and other available information.

* * * * *

(d) The committee may impose a late payment charge or an interest charge, or both, on any handler who fails to pay, on or before the due date established by the Secretary, the total assessment for which such handler is liable. Such due date and the late payment fee and interest rate shall be recommended by the committee and approved by the Secretary.

(e) In order to provide funds to carry out its function, after the effective date of this subpart the committee may accept advance assessments from handlers. Advance assessments received from a handler shall be credited toward assessments levied against that handler during that fiscal period. In the case of an extreme emergency, the committee may also borrow money on a short term basis to provide funds for the administration of this part. Any such borrowed money shall only be used to meet the committee's current financial obligations, and the committee shall repay all borrowed money by the end of the next fiscal period from assessment income.

7. In § 945.52, paragraph (a)(3) is revised to read as follows:

§ 945.52 Issuance of regulations.

(a) *** * ***

(3) Fix the size, capacity, weight, dimensions, pack, labeling or marking of the container, or containers, which may be used in the packaging or handling of potatoes, or both; or

* * * * *

8. Section 945.80 is amended by designating the existing undesignated text as paragraph (a) and adding new paragraphs (b) through (d) to read as follows:

§ 945.80 Reports.

(a) *** * ***

(b) All data or other information constituting a trade secret, or disclosing a trade position or business condition of a particular handler shall be treated as confidential and shall at all times be received by and kept in the custody and under the control of one or more designated employees of the committee. Information which would reveal the circumstances of a single handler shall be disclosed to no person other than the Secretary.

(c) Each handler shall maintain for at least two succeeding fiscal periods such records of potatoes received and of potatoes disposed of by such handler as may be necessary to verify reports required pursuant to this section. The committee, with the approval of the Secretary, may prescribe rules and regulations issued pursuant to this section specifying handler records and reports which the committee may need to perform its functions.

(d) For the purpose of assuring compliance and checking and verifying reports filed by handlers, the Secretary and the committee, through its duly authorized agents, shall have access to any premises where applicable records are maintained, where potatoes are held, and, at any time during reasonable business hours, shall be permitted to inspect such handlers' premises and any and all records of such handlers with respect to matters within the purview of this part.

[FR Doc. 95–5671 Filed 3–9–95; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Parts 160 and 161

[Docket No. 94–027–1]

Standards for Accredited Veterinarian Duties

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow, under certain conditions, accredited veterinarians to issue official animal health documents for animals in herds or flocks under regular health maintenance programs for up to 30 days after inspection. For all other animals, we are proposing to allow accredited veterinarians to issue official animal health documents up to 10 days following inspection. Last, we are proposing to require that all official animal health documents be valid for only 30 days following inspection, regardless of the date of issuance. We would continue to require that accredited veterinarians issue official animal health documents only for animals that they have inspected.

These actions would extend the time period allowed between inspection and the issuance of official animal health documents. We believe these actions would both alleviate the burden placed by the current time requirement on accredited veterinarians and reduce the costs of health inspection for the livestock industry, without significantly increasing animal disease risk.

DATES: Consideration will be given only to comments received on or before May 9, 1995.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. Please state that your comments refer to Docket No. 94–027–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. J. A. Heamon, Senior Staff Veterinarian, Sheep, Goat, Equine, and Poultry Diseases Staff, Veterinary Services, APHIS, USDA, P.O. Drawer 810, Riverdale, MD, 20738. The telephone number for the agency contacts will change when agency offices in Hyattsville, MD, move to Riverdale, MD, during February. Telephone: (301) 436–6954 (Hyattsville); (301) 734–6954 (Riverdale).

SUPPLEMENTARY INFORMATION:

Background

In accordance with 9 CFR parts 160, 161, and 162 (referred to below as the regulations), some veterinarians are accredited by the Federal Government to cooperate with the Animal and Plant Health Inspection Service (APHIS) in controlling and preventing the spread of animal diseases throughout the country and internationally. Accredited veterinarians use their professional training in veterinary medicine to perform certain regulatory tasks.

Section 161.3 of the regulations contains the Standards for Accredited Veterinarian Duties. Currently, under § 161.3(a), we require accredited veterinarians, when issuing or signing a certificate, form, record, or report regarding any animal, to have inspected the animal within 7 days prior to signing the document. We have received numerous letters from veterinarians, veterinary associations, and livestock producers maintaining that this 7-day requirement is impractical, burdensome, and expensive for both veterinarians and producers. All of the correspondents request that we allow accredited veterinarians additional time to issue official animal health documents following inspection.

Many of the correspondents argue that the 7-day requirement makes it difficult for accredited veterinarians involved in intensive livestock practices to issue, in a timely manner, official animal health documents required for the interstate or international transport of animals. Large livestock facilities sell animals continuously. So, in order to issue the health documents near the date of an animal's shipment, if 7 days have passed since the animal's most recent inspection, the veterinarian must revisit the facility where it is housed. This time requirement places a burden on veterinarians with busy practices; many of the veterinarians who have written state that it is impossible for them to visit their clients frequently enough so as not to impede livestock sales and shipments. Furthermore, livestock facilities also are negatively impacted by the 7-day requirement, as they must pay for numerous veterinary inspections if they wish to sell and ship animals frequently.

Other letters cite inspection delays caused by biosecurity requirements at large livestock facilities as a reason for extending the time period allowed for issuing official animal health documents. Biosecurity requirements commonly prohibit veterinarians from entering a facility within 72 hours of being in contact with animals of the same species at other sites. If an accredited veterinarian is under contract to several large livestock facilities with biosecurity requirements, it can be difficult for him or her to inspect animals frequently enough so as not to impede livestock sales and shipments.

Finally, many of the letters remark that often veterinarians do not receive laboratory test results soon enough after inspection to issue official animal health documents within the 7-day period. Thus, a veterinarian can be forced to reinspect an animal shortly after the previous inspection due to laboratory delays beyond his or her control.

Therefore, we are proposing to allow, under certain conditions, accredited veterinarians to issue official animal health documents for animals in herds or flocks under regular health maintenance programs for up to 30 days after inspection. We are proposing to define regular health maintenance program in the regulations as ''an arrangement between an accredited veterinarian and a livestock producer whereby the veterinarian inspects every animal on the premises of the producer at least once every 30 days.'' This kind of arrangement is very common in the livestock industry. Typically, livestock facilities contract with a veterinarian for health inspection of every animal every 30 days as a practical way to protect the health of animals and to facilitate their sale and shipment.

Over time, veterinarians who inspect herds or flocks as part of a regular health maintenance program become very familiar with health conditions in those herds or flocks. They are able to discover current, and anticipate future, health problems more accurately than veterinarians who inspect individual animals, herds, or flocks sporadically. We believe that accredited veterinarians may inspect a herd or flock as part of a regular health maintenance program and then issue relevant official animal health documents for up to 30 days following inspection, with no significant increase in disease risk. Notably, we would continue to require that accredited veterinarians issue official animal health documents only for animals that they have inspected.

Because a veterinarian would have to inspect a herd or a flock several times before he or she could become familiar with the health conditions therein, we are proposing to allow veterinarians the

30-day issuance period only after the third inspection of a herd or flock as part of a regular health maintenance program. Following the first two inspections of a herd or flock as part of a regular health maintenance program, we are proposing to allow accredited veterinarians to issue official animal health documents for only 10 days after inspection.

For all animals not part of a regular health maintenance program, we are proposing to allow accredited veterinarians to issue official animal health documents for up to 10 days following inspection. We believe that providing accredited veterinarians with an additional 3 days following inspection to issue relevant official animal health documents will give them greater flexibility without presenting a significant increase in disease risk.

Finally, we are proposing to require that all official animal health documents be valid for only 30 days following the date of inspection, regardless of the date of issuance. We would require accredited veterinarians to indicate both the date of issuance and the date of expiration on all official animal health documents.

Miscellaneous

We are also proposing to revise the regulations under §§ 160.1 and 161.3 (a), (b), (c), and (k) for the sake of clarity. Currently, the regulations in these sections require that various conditions be met any time an accredited veterinarian ''issue[s] or sign[s] any certificate, form, record or report'' reflecting the health of an animal. However, ''issue'' is not defined in the regulations. We are proposing to define ''issue'' as follows: ''The distribution by an accredited veterinarian of an official animal health document that he or she has signed.''

Also, because under the proposed definition, ''issuance'' entails distributing a signed official animal health document, to avoid redundancy we are proposing to delete the word ''sign'' from § 161.3 (a), (b), (c), and (k). Moreover, we are proposing to remove ''sign'' from these sections because the phrase ''issue or sign'' implies that accredited veterinarians could issue an animal health document without signing it.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing to amend the regulations to allow, under certain conditions, accredited veterinarians to issue official animal health documents for animals in herds or flocks under regular health maintenance programs for up to 30 days after inspection. For inspection of other animals, we are proposing to allow up to 10 days between the inspection of animals and the issuance of official animal health documents.

Currently, under § 161.3(a), we require accredited veterinarians, when issuing or signing a certificate, form, record, or report regarding any animal, to have inspected the animal within 7 days. This requirement places an economic burden on large livestock facilities that sell and ship animals continuously. That is, large livestock facilities must have their animals inspected frequently, in order for veterinarians to issue, in a timely manner, the health documents required for the frequent sale and shipment of animals. Such frequent visits can be expensive.

If veterinarians were allowed additional time to issue official animal health documents following inspection, they could inspect animals less frequently. Therefore, primarily, this proposal would economically benefit large livestock facilities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0032 and there are no new requirements.

List of Subjects

9 CFR Part 160

Veterinarians.

9 CFR Part 161

Reporting and recordkeeping requirements.

Accordingly, 9 CFR parts 160 and 161 would be amended as follows:

PART 160—DEFINITION OF TERMS

1. The authority citation for part 160 would continue to read as follows:

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 160.1 would be amended by adding, in alphabetical order, the following definitions:

§ 160.1 Definitions.

* * * * *

Issue. The distribution by an accredited veterinarian of an official animal health document that he or she has signed.

* * * * *

Regular health maintenance program. An arrangement between an accredited veterinarian and a livestock producer whereby the veterinarian inspects every animal on the premises of the producer at least once every 30 days.

* * * * *

* * * * *

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

3. The authority citation for part 161 would continue to read as follows:

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 116, 120, 121, 125, 134b, 134f, 612, and 613; 7 CFR 2.17, 2.51, and 371.2(d).

4. Section 161.3 would be amended as follows:

a. By revising paragraphs (a) and (b) to read as set forth below.

b. In paragraph (c), by removing the phrase ''or sign'' in the first sentence.

c. In paragraph (k), by removing the phrase ''or sign'' in the first sentence.

§ 161.3 Standards for accredited veterinarian duties.

* * * * *

(a) An accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal, other than those in regular health maintenance programs, unless he or she has personally inspected that animal within 10 days prior to issuance.

(1) Following the first two inspections of a herd or flock as part of a regular health maintenance program, an accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal in that program, unless he or she has personally inspected that animal within 10 days prior to issuance.

(2) Following the third and subsequent inspections of a herd or flock in a regular health maintenance program, an accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal in that program, unless he or she has personally inspected that animal within 30 days prior to issuance.

(b) An accredited veterinarian shall not issue, or allow to be used, any certificate, form, record or report, until, and unless, it has been accurately and fully completed, clearly identifying the animals to which it applies, and showing the dates and results of any inspection, test, vaccination, or treatment the accredited veterinarian has conducted, except as provided in paragraph (c) of this section, and the dates of issuance and expiration of the document. Certificates, forms, records, and reports shall be valid for 30 days following the date of inspection of the animal identified on the document. The accredited veterinarian shall distribute copies of certificates, forms, records, and reports according to instructions issued to him or her by the Veterinarian-in-Charge.

* * * * *

Done in Washington, DC, this 6th day of March 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–5992 Filed 3–9–95; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 756

Navajo Abandoned Mine Lands Reclamation (AMLR) Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions pertaining to a previously proposed amendment to the Navajo AMLR plan (hereinafter referred to as the ''Navajo plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA, 30 U.S.C. 1201 *et seq.*). The revisions for the Navajo Nation's proposed statute pertain to the reclamation of interim program coal sites. The amendment is intended to revise the Navajo plan to be consistent with SMCRA, and to improve operational efficiency.

DATES: Written comments must be received by 4 p.m., m.s.t., March 27, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.

Copies of the Navajo plan, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmett, Acting Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue NW., Suite 1200, Albuquerque, New Mexico 87102

The Navajo Nation, P.O. Box 308, Window Rock, Arizona 86515, Telephone: (602) 871–4941.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of SMCRA established an AMLR program for the purposes of reclaiming and restoring lands and waters adversely affected by past mining. The program is funded by a reclamation fee levied on the production of coal. Lands and waters eligible for reclamation under title IV are those that were mined or affected by mining and abandoned or inadequately reclaimed prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State, Federal, Tribal, or other laws.

Title IV provides for State or Tribal submittal to OSM of an AMLR plan. The Secretary of the Interior adopted regulations at 30 CFR 870 through 888 that implement Title IV of SMCRA. Under these regulations, the Secretary reviewed the plans submitted by States and Tribes and solicited and considered comments of State and Federal agencies and the public. Based upon the comments received, the Secretary determined whether a State or Tribe had the ability and necessary legislation to implement the provisions of Title IV. After making such a determination, the Secretary decided whether to approve the State or Tribe program. Approval granted the State or Tribe exclusive authority to administer its plan.

Ordinarily, under section 405 of SMCRA, a State or Tribe must have an approved surface mining regulatory program prior to submittal of an AMLR plan to OSM. However, on July 11, 1987, the President signed a supplemental appropriations bill (Pub. L. 100–71) that authorized the Crow and Hopi Tribes and Navajo Nation to adopt AMLR programs without approval of Tribal surface mining regulatory programs.

Upon approval of a State's or Tribe's plan by the Secretary, the State or Tribe may submit to OSM, on an annual basis, an application for funds to be expended by that State or Tribe on specific projects that are necessary to implement the approved plan. Such annual requests are reviewed and approved by OSM in accordance with the requirements of 30 CFR Part 886.

II. Background on the Navajo Plan

On May 16, 1988, the Secretary of the Interior approved the Navajo plan. General background information on the Navajo plan, including the Secretary's findings, the disposition of comments, and the approval of the Navajo plan can be found in the May 16, 1988, **Federal Register** (53 FR 17186). Approval of the Navajo plan is codified at 30 CFR 756.13. Subsequent actions concerning the Navajo plan and plan amendments can be found at 30 CFR 756.14.

III. Proposed Amendment

By letter dated January 12, 1995, the Navajo Nation submitted a proposed amendment to its AMLR plan pursuant to SMCRA (administrative record No.

NA–227). The Navajo Nation submitted the proposed amendment at its own initiative and in response to the final rule **Federal Register** notice acknowledging that the Navajo Nation would amend its AMLR Code of 1987 to provide for the reclamation of interim program coal sites (59 FR 49178, 48181, finding No. 1(f), September 27, 1994; administrative record No. NA–225). The Navajo Nation proposed the addition of new language at section 404(b) of its AMLR Code to provide for such reclamation.

OSM announced receipt of the proposed amendment in the February 10, 1995, **Federal Register** (60 FR 7926), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. NA–232). Because no one has requested a public hearing or meeting, none has been held. The public comment period ends on March 10, 1995.

OSM would like to take this opportunity to correct an error in the February 10, 1995, **Federal Register** document. In the first column on page 7927, part of the original language of the proposed amendment submitted by the Navajo Nation is incorrectly cited. Subsection 404(b)(4) should read as follows:

> The site qualifies as a priority one or two site pursuant to section 403(a) (1) and (2) of SMCRA. Priority will be given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a community.

During its review of the proposed amendment, OSM identified concerns relating to the provisions of the Navajo AMLR Code of 1987 at section 404(b)(2) pertaining to (1) the dates used to define interim program coal sites, and (2) the requirement that a determination be made that any funds available for reclamation or abatement pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site. OSM notified the Navajo Nation of the concerns in a telephone conversation on February 23, 1995 (administrative record No. NA–233). The Navajo Nation responded in a letter dated February 23, 1995, by submitting a revised amendment (administrative record No. NA–234).

The Navajo Nation proposes revisions to section 404(b)(2) of the Code as it pertains to the dates used to define interim program coal sites, and the addition of the requirement that there be insufficient funds for completion of reclamation or abatement activities.

IV. Public Comment Procedures

OSM is extending by an additional 15 days the comment period on the proposed Navajo plan amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 884.14 and 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Navajo plan.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

V. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State or Tribal AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed State or Tribe AMLR plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR Parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State or Tribe AMLR plans and revisions thereof categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Tribal submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the Tribe. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 756

Abandoned mine land reclamation program, Indian lands.

Dated: March 3, 1995.

Charle E. Sandberg,

Acting Assistant Director, Western Support Center.

[FR Doc. 95–5924 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 773

RIN 1029–AB80

Notification and Permit Processing

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening of public comment period and notice of public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) published a proposed rule in response to a petition for rulemaking regarding notification and permit processing provisions of 30 CFR part 773. OSM has received requests to hold a public hearing on the proposed rule and is announcing that public hearings will be held, and the comment period reopened in order to accommodate the hearing.

DATES: *Public Hearings:* A public hearing is scheduled for March 16, 1995, in Vincennes, Indiana, at 6 p.m. local time.

Written Comments: OSM will accept written comments on the proposed rule until 5 p.m. Eastern time on March 23, 1995.

ADDRESSES: *Public Hearings:* The public hearing will be held at the Executive Inn, One Executive Boulevard, Vincennes, Indiana.

Written Comments: Hand deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 660, 800 North Capitol St., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 660 NC, 1951 Constitution Avenue NW, Washington, DC 20240.

Comments may also be sent electronically through the INTERNET to: OSMRULES@OSMRE.GOV. Please note that this address is different from the address specified in the proposed rule (59 FR 53884).

FOR FURTHER INFORMATION CONTACT: Scott Boyce, Branch of Research and Technical Standards, Office of Surface Mining Reclamation and Enforcement, Room 640 NC, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202–343–3938.

SUPPLEMENTARY INFORMATION: On October 26, 1994 (59 FR 53884), OSM published a proposed rule which would amend its regulations in response to a petition for rulemaking. The rulemaking would require that the regulatory authority provide to each person who was a party to an informal conference its written findings granting, requiring modification of, or denying a permit application. The rulemaking would also require both that an approved permit contain in its permit area only lands for which the applicant has established a right-to-enter and commence surface coal mining and reclamation operations, and that compliance with an approved permit be based on activities to be conduced solely upon such lands.

On December 23, 1994 (59 FR 66286), as a result of a commenter's request, the comment period was extended to February 27, 1995. OSM has received requests to hold a public hearing on the proposed rule. Therefore, in order to accommodate the public hearing, OSM will reopen the comment period. Comments will now be accepted until 5 p.m. local time on March 23, 1995.

Refer to **DATES** and **ADDRESSES** for the times, dates and locations for the hearing. The hearing will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSM requests that persons who testify at a hearing give the transcriber a written copy of their testimony.

Any disabled individual who needs special accommodations to attend this public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: March 7, 1995.

Mary Josie Blanchard,

Acting Assistant Director, Reclamation and Regulatory Policy.

[FR Doc. 95–6027 Filed 3–7–95; 5:02 pm]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–5170–2]

Approval of Delegation of Authority; National Emission Standards for Hazardous Air Pollutants; Coke Oven Batteries; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to grant delegation of authority to the State of Utah to implement and enforce the National Emission Standards for Coke Oven Emissions. The Governor of Utah requested delegation from EPA Region VIII in a letter dated August 18, 1994. In the Final Rules Section of this **Federal Register**, EPA is approving the State of Utah's request for delegation as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. EPA's rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by April 10, 1995.

ADDRESSES: Written comments should be submitted to Patricia D. Hull, Director, Air, Radiation & Toxics Division, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466 and concurrently to Russell A. Roberts, Director, Division of Air Quality, Department of Environmental Quality, 1950 West North Temple, Salt Lake City, Utah 84114–4820. Copies of State of Utah's submittal are available for public inspection during normal business hours at the above locations.

FOR FURTHER INFORMATION CONTACT: T. Scott Whitmore at (303) 293–1758.

SUPPLEMENTARY INFORMATION: See the information provided in the final action which is located in the Final Rules Section of this **Federal Register**.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Intergovernmental relations, Hazardous substances.

Authority: 42 U.S.C. 7412.

Dated: February 23, 1995.

Kerrigan Clough,

Acting Regional Administrator, Region VIII.

[FR Doc. 95–5979 Filed 3–9–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[OK001; AD-FRL–5170–3]

Clean Air Act Proposed Interim Approval Operating Permits Program; the State of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: The EPA proposes source category-limited interim approval of the operating permits program submitted by the Oklahoma Department of Environmental Quality (ODEQ) through the Governor of Oklahoma on January 12, 1994, for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, with the exception of sources on Indian country.

DATES: Comments on this proposed action must be received in writing by April 10, 1995.

ADDRESSES: Written comments on this action should be addressed to Ms. Jole C. Luehrs, Chief, New Source Review Section, at the EPA Region 6 Office listed below. Copies of the State's submittal and other supporting information used in developing the proposed interim approval rule are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch

(6T–AN), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Oklahoma Department of Environmental Quality, 4545 North Lincoln Boulevard., Suite 250, Oklahoma City, Oklahoma 73105–3483.

FOR FURTHER INFORMATION CONTACT: Wm. Nicholas Stone, New Source Review Section (6T–AN), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7226.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (''the Act'')), EPA has promulgated rules which define the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V requires States to develop, and submit to the EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources, with the exception of sources on Indian country.

The Act requires that States develop and submit these programs to the EPA by November 15, 1993, and that the EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of 40 CFR part 70, and where a State requests source category-limited interim approval, the EPA may grant the program interim approval for a period of up to two years. If the EPA has not fully approved a program by two years after the November 15, 1993, date or by the end of an interim program, it must establish and implement a Federal program.

B. Federal Oversight and Sanctions

If the EPA were to finalize this proposed source category-limited interim approval, it would extend for two years following the effective date of final interim approval, and could not be renewed. During the interim approval period, the State of Oklahoma would be protected from sanctions, and the EPA would not be obligated to promulgate, administer, and enforce a Federal permits program for the State of Oklahoma. Permits issued under a program with interim approval have full standing with respect to part 70, and the State will permit sources based on the transition schedule submitted with the source category-limited approval request. This schedule may extend for no more than five years beyond the interim approval date.

Following final interim approval, if Oklahoma has failed to submit a complete corrective program for full approval by the date six months before expiration of the interim approval, the EPA would start an 18-month clock for mandatory sanctions. If Oklahoma then failed to submit a corrective program that the EPA found complete before the expiration of that 18-month period, the EPA would apply sanctions as required by section 502(d)(2) of the Act, which would remain in effect until the EPA determined that the State of Oklahoma had corrected the deficiency by submitting a complete corrective program.

If, following final interim approval, the EPA were to disapprove Oklahoma's complete corrective program, the EPA would be required under section 502(d)(2) to apply sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date Oklahoma had submitted a revised program and the EPA had determined that it corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the end of an interim approval period if Oklahoma has not timely submitted a complete corrective program or the EPA has disapproved a submitted corrective program. Moreover, if the EPA has not granted full approval to Oklahoma's program by the expiration of an interim approval and that expiration occurs after November 15, 1995, the EPA must promulgate, administer, and enforce a Federal permits program for Oklahoma upon interim approval expiration.

II. Proposed Action and Implications

A. Analysis of State Submission

1. Support Materials

Pursuant to section 502(d) of the Act, the Governor of each State is required to develop and submit to the Administrator a part 70 program under State or local law or under an interstate compact meeting the requirements of title V of the Act. Under the signature of Governor David Walters, ODEQ requested approval with full authority to administer the State part 70 program in all areas of the State of Oklahoma.

The Governor's letter makes no reference to Indian country and specifically requests full authority over the State of Oklahoma. Because the Oklahoma permitting authorities have not demonstrated, consistent with applicable principles of Indian law and Federal Indian policies, legal authority to regulate sources in Indian country under the Act, the proposed interim approval of the Oklahoma part 70 program will not extend to any lands within the exterior boundaries of Indian country. Though the State has made no demonstration of jurisdiction over Indian country, the State may at a later time make an adequate demonstration of authority. Title V sources located within the exterior boundaries of Indian country in the State of Oklahoma will be subject to the Federal operating permit program, to be promulgated at 40 CFR part 71, unless a tribe is delegated a part 70 program. Regulations for delegation of tribal programs are being developed pursuant to section 301(d) of the Act. Tribes may also have inherent sovereign authority to regulate air pollutants from sources on Indian country.

The Oklahoma submittal addresses the program description as required at 40 CFR 70.4(b)(1) by describing how ODEQ intends to carry out its responsibilities under the part 70 regulations. The program description is addressed in the following areas: (I) Complete Program Description, (II) State Permitting Regulations, Guidelines, Policies, and Procedures, (III) Attorney General's Opinion, (IV) Permitting Program Documentation, (V) Provisions for Implementing the Operating Permits Program, (VI) Permit Fee Demonstration, (VII) Compliance Tracking and Enforcement, and (VIII) Provisions Implementing the Requirement of Other Titles of the Act (40 CFR 70.4(b)(3) (i) and (v)). The program description has been deemed to be appropriate for meeting the requirement of 40 CFR 70.4(b)(1).

Pursuant to 40 CFR 70.4(b)(3), the Governor is required to submit a legal opinion from the Attorney General (or the attorney for the State air pollution control agency that has independent legal counsel, hereafter AG) demonstrating adequate authority to carry out all aspects of a title V operating permits program. The State of Oklahoma submitted an AG's Opinion in section III of the ''Program Description'' and a Supplemental AG's Opinion on February 28, 1994, demonstrating adequate legal authority as required by Federal law and regulation. The Supplemental AG's Opinion addresses the delegation of authority for signature from the

Attorney General to the Chief Counsel for the Air Quality Division who has full authority to represent the State in all matters relating to the Department's environmental programs. This opinion with the supplement adequately addresses the thirteen provisions listed at 40 CFR 70.4(b)(3)(i)–(xiii).

The State statutes cited in the AG's Opinion authorize the imposition of criminal fines in the amount of $10,000 per violation as required by 40 CFR 70.11(a)(3)(ii) for knowing violations of applicable requirements, permit conditions, as well as fee and filing requirements. Further, these statutes authorize the fine amounts to be imposed on a per day per violation basis as required by 40 CFR 70.11(a)(3)(ii). The statute at Title 27A O.S. Supplement. 1993, Section 2–5–116, appears to establish a cap in the amount of $250,000 on criminal penalties. The State is requested to supplement the Attorney General's Opinion again to clarify that this limit will not impede the State or EPA from enforcing daily violations with a $10,000 per day per violation fine. This supplemental AG Opinion should be submitted to the EPA before the publication of the final interim approval notice.

40 CFR 70.4(b)(4) requires the submission of relevant permitting program documentation not contained in the regulations, such as permit forms and relevant guidance to assist in the State's implementation of its program. The State addresses this requirement in its program submittal under Attachment 39—''Instructions for Title V Part 70 Operating Permit Application and General Permit Application Completeness Checklist'', Attachment 40—''Permit Form'', Attachment 41—''Permit Reporting Forms'', and Attachment 42—''Inspection Protocol, Point Source Inspection Form.''

2. Regulations and Program Implementation

The State of Oklahoma has submitted the Oklahoma Air Quality Council Regulations (OAC) 252:100–8 ''Operating Permit Regulations'' and OAC 252:100–8–9 ''Permit Fee Requirements,'' for implementing the State's part 70 program as required by 40 CFR 70.4(b)(2). Sufficient evidence of their procedurally correct adoption was submitted in the package on January 7, 1994, showing evidence of adoption which was sent to the EPA in the State's original submittal. Copies of all applicable State and local statutes and regulations which authorize the part 70 program, including those governing State administrative procedures, were submitted with the State's program.

The State submitted as Attachment 1, OAC 252–100–8 titled ''Operating Permits (Part 70)'' (Subchapter 8), as required at 40 CFR 70.4(b)(2). Subchapter 8 follows the rule at 40 CFR part 70 very closely. Supporting documentation of procedurally correct adoption and copies of all applicable State statutes and regulations which authorize the part 70 program, including those governing State administrative procedures, were submitted with the State's program. Subchapter 8 received written comments from May 7 through October 19, 1993, and public hearings were held July 13, August 17, September 14, and October 19, 1993. The response to comments was made by ODEQ on October 19, 1993. Sufficient evidence of their procedurally correct adoption was submitted and meets the requirements of 40 CFR 70.4(b)(2).

The following requirements, set out in the EPA's part 70 rule, are addressed in the State's submittal: (a) provisions to determine applicability (40 CFR 70.3(a)), OAC 252–100–8–3; (b) provisions to determine complete applications (40 CFR 70.5(a)(2)), OAC 252–100–8–5; (c) public participation (40 CFR 70.7(h)), OAC 252–100–8–7(i); (d) provisions for minor permit modifications (40 CFR 70.7(e)(2)), OAC 252–100–8–7(e); (e) provisions for permit content (40 CFR 70.6(a)), OAC 252–100–8–6; (f) provisions for operational flexibility (40 CFR 70.4(b)(12)), OAC 252–100–8–6(h); and (g) enforcement provisions (40 CFR 70.4(b)(5) and 70.4(b)(4)(ii)), OAC 252–100–8–6(b-c) and the AG Opinion.

Following is a discussion of certain specific provisions in the State's submission as they relate to requirements of 40 CFR part 70:

(a) Applicability criteria, including any criteria used to determine insignificant activities or emissions levels (40 CFR 70.4(b)(2) and 70.3(a)): Applicability criteria are listed at OAC 252:100–8–3 with ''applicable requirement'' defined at OAC 252:100–8–2. The regulations at OAC 252:100–8–2 defines a ''major source.'' The State included a paragraph (4) to this definition which does not allow aggregation of emission sources at oil and gas wells, compressor stations, and pump stations for criteria pollutants. Paragraph (4) is in conflict with the rule because oil and gas sources may not be aggregated to determine major source status for Hazardous Air Pollutants only. Therefore, as a condition for full approval, the regulations at OAC 252:100–8–2, ''major source,'' must be revised to delete paragraph (4).

Oklahoma's ''major source'' definition creates the possibility that sources that would otherwise be major under part 70 would not be major due to the non-aggregation provision for oil and gas facilities. Non-aggregation of oil and gas units is provided only for the emission of hazardous air pollutants in the Federal rule. 40 CFR 70.2 requires all sources located on contiguous or adjacent properties, under common control, and belonging to a single major industrial grouping to be considered as the same source. The Oklahoma permit regulations could cause certain part 70 major sources, as defined in 40 CFR 70.2, or portions of such sources, to be treated as separate sources. This could cause some part 70 sources to be exempted from coverage by part 70 permits which must ensure all part 70 requirements for these sources are met. The EPA considers Oklahoma's misinterpretation of the non-aggregation provision for criteria pollutants to allow an unknown number of oil and gas facilities to avoid title V of the Act. The EPA expects that any permits issued by the State will address all applicable requirements, as required by 40 CFR 70.7(a)(1)(iv).

The State of Oklahoma submitted under the signature of the Executive Director of the ODEQ, Mark Coleman, a request dated January 23, 1995, for the EPA to grant source category-limited interim approval allowing more time to permit these extra sources and correct the regulations. In the original submittal the Governor of Oklahoma delegated the authority to submit non-regulatory changes under the signature of the Executive Director of the ODEQ. Because the request for source category-limited interim approval requires a regulatory change, the EPA must receive a formal request under the Governor's signature before the EPA can publish final interim approval in the **Federal Register**. The request included a revised transition schedule that demonstrates the State will permit at least 60% of its sources and at least 80% of its emissions during the first three years. The request is consistent with the policy memo from John Seitz, Director of the Office of Air Quality Planning and Standards dated August 2, 1993. The EPA can grant source category-limited interim approval to States whose programs do not provide for permitting all required sources if the State makes a showing that two criteria were met: 1) that there were ''compelling reasons'' for the exclusions and 2) that all required sources will be permitted on a schedule that ''substantially meets'' the requirements of part 70. The EPA considers Oklahoma's misinterpretation of use of the non-aggregation provision

for criteria pollutants to be a compelling reason for granting this type of interim approval. Further, the revised transition plan demonstrates that all part 70 sources will be permitted on a schedule that substantially meets the requirements of part 70.

The EPA is therefore proposing to grant Oklahoma source category-limited interim approval. Source category-limited interim approval will allow Oklahoma to implement the revised transition schedule to permit all part 70 sources during the transition period after the permit regulations have been revised. As a condition of this interim approval, the State must revise the regulations at OAC 252:100–8–7(a)(5)(A) and OAC 252:100–8–5(b)(2) to reflect the new transition schedule for permitting existing sources consistent with the rule at 40 CFR part 70. For full part 70 approval, the ODEQ will be required to revise its permit regulations so no source or portion of a source which would be defined as a major under 40 CFR 70.2 will be exempt from part 70 requirements because the emissions of an oil or gas unit have not been aggregated. Additionally, the State must formally request source category-limited interim approval under the Governor's signature because this approval action requires the regulatory changes outlined above. This formal request under the Governor's signature must be received by the EPA before this approval action can be published as final in the **Federal Register**.

The regulations at OAC 252:100–8–3(e) address insignificant activities. Emissions of one pound per hour of criteria pollutants or emissions of toxic pollutants less than the de minimis listed at OAC 252:100–41–43(a)(5) are considered insignificant. Further, the State regulations consider increases in potential to emit at a facility to be insignificant if the increase is less than 10% of the permit limit or 10% of the facility's baseline potential to emit. This insignificant level is available to any permit action (modification or renewal) and must be identified in the application. Emissions of 1 lb/hr based on the source's potential to emit are reasonable. However, to consider a percentage change in the potential to emit or a permit limit as insignificant is not reasonable. As the regulations are currently written, a permitted source could exceed a permit limit by 10% without liability. Also, 10% of a high permit limit could mask a permit modification from preconstruction review. For these reasons, the language at OAC 252:100–8–3(e)(3) must be revised to delete the allowance of any percentage of the permit limit or change in the potential to emit as an insignificant emission level. Further, the language at OAC 252:100–8–3(e)(1) must be amended to base the 1 lb/hr insignificant emissions level on the source's potential to emit.

The ODEQ will maintain a list of insignificant activities that need not be quantified on the application as well as a list of activities the Department considers to be ''trivial.'' Trivial activities are not required to be identified on the application. The Federal rule at part 70 allows a list of insignificant activities and emission levels which need not be included in permit applications be submitted as part of a State's part 70 program, and approved by the Administrator. However, the list of insignificant activities and the list of trivial activities mentioned in the State regulations were not submitted as part of the part 70 program, and part 70 does not allow for the substitution of the State permitting authority's approval for the Administrator's approval, which is required by 40 CFR 70.5(c). Furthermore, 40 CFR 70.5(c) clarifies that if the insignificant activities are exempted because of size or production rate, a list of these insignificant activities must be included in the application. Therefore, for full part 70 approval, the regulations at OAC 252:100–8–3(e) must be revised to reflect the requirements at 40 CFR 70.5(c).

The State's insignificant emissions levels will allow for an emissions threshold that could allow significant emissions to avoid appearing on the application. As a condition of full approval, the State must amend the language at OAC 252:100–8–3(e) so that the insignificant emissions rate of 1 lb/hr for criteria pollutants will be based on potential to emit instead of actual emissions. Additionally, the language at OAC 252:100–8–3(e)(3) must be revised to delete the allowance of any percentage of the permit limit or change in the potential to emit as an insignificant emission level. An application may not omit information needed to determine the applicability of, or to impose any applicable requirement, or to evaluate the fee amount required. Further, any list of insignificant activities or trivial activities must be approved by the EPA prior to its use.

(b) Provisions to determine complete applications are listed at OAC 252:100–8–5(d) and 5(b)(8). Complete application forms, model permit forms, permit reporting forms, and instructions are located in Attachments 39, 40, 41, and 42. These application forms may be amended without rulemaking to facilitate changes required by new applicable requirements. These provisions meet the requirements of 40 CFR 70.5 (a)(2) and (c).

(c) Provisions for public participation are found at OAC 252:100–8–7(i) and review by the EPA and affected States at OAC 252:100–8–8. The State regulations provide for adequate public participation and notice to affected States for permit issuance, renewals, and reopenings. The regulations provide standing only for those who have provided written comments during public review. The State must clarify that judicial review is available to all affected parties for all final permit actions including minor modifications and administrative amendments. As a condition of full approval, the provision at OAC 252:100–8–7(j) must be clarified to assure that all final permit actions are subject to judicial review.

The regulations at OAC 252:100–8–7(i)(1)(E) and at OAC 252:100–8–7(j)(2)(A) provide standing for written comments only during public review. As a condition of full approval, these provisions in the regulations must be revised to delete the word ''written,'' thus providing standing for oral comments during the public participation process. With these required changes, the provisions meet the requirements of 40 CFR 70.7(h).

(d) The rule at 40 CFR 70.7(e)(2)(i) specifies criteria for minor permit modifications. These criteria are adequately incorporated in the State regulations at OAC 252:100–8–7(e)(1)(A). These provisions are more stringent than the rule at 40 CFR 70.7(e) because they include State-only requirements as well as federally enforceable requirements. The provisions at OAC 252:100–8–7(e) meet the requirements at 40 CFR 70.7(e).

The EPA has noted two deficiencies in the administrative amendments procedure at OAC 252:100–8–7(d). This procedure is designed to make simple changes to the permit that do not require public, affected State, or EPA review. The rule at 40 CFR 70.7(d)(1)(iii) allows administrative amendments to be used to require more frequent monitoring at the facility. The regulations at OAC 252:100–8–7(d)(1)(C) allow ''. . . more or less . . .'' frequent monitoring. Also, OAC 252:100–8–7(d)(1)(E) allows changes processed under Subchapter 7 using enhanced New Source Review (NSR) procedures to be incorporated into the operating permit under an administrative amendment.

The administrative amendment procedure cannot be used to make the

monitoring requirements less stringent. Therefore, as a condition for full approval, the State must revise the administrative amendment procedure to delete the words ''. . . or less . . .'' from OAC 252:100–8–7(d)(1)(C).

The regulations do not define or specify the NSR procedures mentioned and therefore require clarification. The rule at 40 CFR 70.7(d)(1)(v) requires that the procedures used for enhanced NSR are substantially equivalent to the requirements of 40 CFR 70.7 and 40 CFR 70.8 that would be applicable to the change if it were subject to review as a permit modification, and has compliance requirements substantially equivalent to those contained in 40 CFR 70.6. Subchapter 7 has not been submitted as a SIP revision and the EPA will reserve comment on Subchapter 7 until it is submitted. Until the EPA has completed its review of the State Implementation Plan (SIP) revision and has approved it, the EPA expects that the State will interpret the term ''enhanced'' in OAC 252:100–8–7(d)(1)(E) consistent with the EPA's definition of that term, so that changes processed under the State's NSR program will be eligible for incorporation into the title V permit through administrative amendment only if those changes have been processed consistent with the requirements of 40 CFR 70.7(d)(1)(v), as explained above. Interpreted in this way, the State's program is eligible for interim approval.

Therefore, as a condition for full approval, the State must revise the regulations at OAC 252:100–8–7(d)(1)(E) to define or specify ''Enhanced New Source Review procedures'' and to submit a SIP revision for Subchapter 7 that reflects these procedures.

(e) Provisions for permit content are found at OAC 252:100–8–6. The State regulations contain all of the provisions at 40 CFR 70.6. The language in the State regulations is often verbatim with the rule. Adequate provisions are made for permit duration, permit shield, general permits, temporary sources, and emergency situations. The regulations at OAC 252:100–8(a)(3)(C)(iii)(I) define ''prompt'' reporting of exceedances as 24 hours after the occurrence. The provisions at OAC 252:100–8–6(a) include the phrase ''To the extent practicable . . .'' This phrase indicates that the State has discretion in what constitutes an applicable requirement. In order to receive full approval, the State must remove the phrase ''to the extent practicable.'' Until this revision is made, the permits issued by the State shall meet the requirements of 40 CFR 70.6 and include all applicable requirements.

(f) Provisions for operational flexibility and alternative scenarios are listed at OAC 252:100–8–6(h). This section meets the requirements of 40 CFR 70.4(b)(12), 70.5(c)(7), and 70.6(a)(10).

(g) Provisions for compliance tracking and enforcement are described in Section VII of the submittal. The State commits to submit annual information concerning the State's enforcement activities in part A of this section. Attachment 42 contains an Inspection Protocol and Point Source Inspection Form. Attachment 48 is the latest Enforcement Memorandum of Agreement. Attachment 49 contains the Air Quality Program Enforcement Action Report. Attachment 50 contains a tracking list for Administrative Orders and Consent Orders. The AG Opinion discussed above outlines the State's authority to enforce all aspects of the program. These submission elements meet the requirements for compliance tracking and reporting at 40 CFR 70.4(b)(4)(ii) and (5). These submission elements meet the enforcement authority requirements at 40 CFR 70.4(b)(2), 70.4(b)(3)(vii), and 70.4(9).

The State of Oklahoma has the authority to issue a variance from requirements under Title 27A O.S. Supplement. 1993, Section 2–5–109. The EPA regards this provision as wholly external to the program submitted for approval under part 70, and consequently is proposing to take no action on this provision of State law. The EPA has no authority to approve provisions of State law, such as the variance provision referred to, which are inconsistent with the Act. The EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a federally enforceable part 70 permit, except where such relief is granted through the procedures allowed by part 70. A part 70 permit may be issued or revised (consistent with part 70 permitting procedures) to incorporate those terms of a variance that are consistent with applicable requirements. A part 70 permit may also incorporate, via part 70 permit issuance or modification procedures, the schedule of compliance set forth in a variance. However, the EPA reserves the right to pursue enforcement of applicable requirements notwithstanding the existence of a compliance schedule in a permit to operate. This is consistent with 40 CFR 70.5(c)(8)(iii)(C), which states that a schedule of compliance ''shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.''

3. Permit Fee Demonstration

The regulations at OAC 252:100–8–9 specify an annual fee of $25 per ton per year based on actual or allowable emissions at the facility as reflected in the emission inventory. This fee is based on 1995 dollars for the first year and will be adjusted each year afterward to reflect the difference between the Consumer Price Index (CPI) for the previous year to the CPI for 1989. The original submittal from the State did not contain a detailed fee analysis. Instead, the regulations at OAC 252:100–8–9(d)(1)(B) specify that the ODEQ must complete a detailed workload analysis mandated by State law to be conducted by an independent consultant with a review of the fee and adjustment of the fee as necessary. The State submitted the workload analysis and fee demonstration to the EPA for review on November 7, 1994. The formal submission to the program was made in a letter dated January 23, 1995, from the Executive Director of the ODEQ to the EPA. The fee demonstration recommends a fee of $15.19 per ton in 1995 dollars and will be adjusted each year to the 1989 CPI as provided for in the regulations.

Though the fee reflected in the fee demonstration is less than the $25 per ton fee listed in the Act, the State has shown that it will provide sufficient funding based on the applicable requirements in effect at the time of the program submittal. Based on the anticipated emissions, the State expects the $15.19 per ton fee to generate over $4,250,000 the first year. These funds will adequately pay for the anticipated costs of the program as demonstrated in the detailed workload analysis.

Therefore, based on its review, the EPA proposes approval for the fee structure and workload analysis of the Oklahoma part 70 program. The EPA solicits comment on the fee during the comment period for this proposed approval action and will respond to any comments before taking final action. The EPA is recommending approval of the $15.19 per ton fee and deems the analysis and fee demonstration adequate in accordance with 40 CFR part 70.

4. Provisions Implementing the Requirements of Other Titles of the Act

The State of Oklahoma acknowledges that its request for approval of a part 70 program is also a request for approval of a program for delegation of unchanged section 112 standards under the authority of section 112(l) as they apply to part 70 sources. Upon receiving approval under section 112(l), the State may receive delegation of any new authority required by section 112 of the Act through the delegation process.

The State also has the option at any time to request, under section 112(l) of the Act, delegation of section 112 requirements in the form of State regulations which the State demonstrates are equivalent to the corresponding section 112 provisions promulgated by the EPA. At this time, the State plans to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 requirements into its regulations.

The radionuclide National Emission Standard for Hazardous Air Pollutants (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State operating permits program for part 70 sources. There is not yet a Federal definition of ''major'' for radionuclide sources. Therefore, until a major source definition for radionuclides is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under part 70 for another reason, thus requiring a part 70 permit. The EPA will work with the State in the development of its radionuclide program to ensure that permits are issued in a timely manner.

Section 112(g) of the Act requires that, after the effective date of a permits program under title V, no person may construct, reconstruct or modify any major source of hazardous air pollutants unless the State determines that the maximum achievable control technology (MACT) emission limitation under section 112(g) will be met. Such determination must be made on a case-by-case basis where no applicable limitations have been established by the Administrator. During the period from the title V effective date to the date the State has taken appropriate action to implement the final section 112(g) rule (either adoption of the unchanged Federal rule or approval of an existing State rule under 112(l)), Oklahoma intends to implement section 112(g) of the Act through the State's preconstruction process.

The State of Oklahoma commits to appropriately implementing and enforcing the existing and future requirements of sections 111, 112 and 129 of the Act, and all MACT standards promulgated in the future, in a timely manner.

The regulations at OAC 252:100–8–6(i) provide for the permitting of acid rain sources. The EPA commented on these regulations on October 1, 1993, and recommended that the State incorporate by reference the Federal acid rain permit requirements. The State has agreed to change OAC 252:100–8–6(i) to incorporate by reference the acid rain permit requirements and has drafted this revision as an emergency rule. The State must submit this regulatory revision for incorporation by reference of the acid rain permitting rules before this approval action can be published as final in the **Federal Register**.

5. Enforcement Provisions

The State describes compliance tracking and enforcement under Section VII of the submittal. Oklahoma commits to submit annual information concerning the State's enforcement activities in part A of this section. As required at 40 CFR 70.4(b)(4)(ii) and 70.4(b)(5), the Enforcement Memorandum of Understanding, signed by the State and the EPA on July 22, 1993, appears in the submittal as Attachment 48. Attachment 42 contains an Inspection Protocol and Point Source Inspection Form. Attachment 49 contains the Air Quality Program Enforcement Action Report. Attachment 50 contains a tracking list for Administrative Orders and Consent Orders. The AG Opinion discussed above outlines the State's authority to enforce all aspects of the program. This statement of authority is required at 40 CFR 70.4(b)(3)(vii).

The compliance tracking and enforcement information in the submittal serves to describe the current processes in place to track air permits and conduct enforcement actions. These elements meet the requirements for compliance tracking and reporting at 40 CFR 70.4(b) (4)(ii) and (5). Further, these elements meet the enforcement authority requirements at 40 CFR 70.4(b)(2), 70.4(b)(3)(vii), and 70.4(9).

6. Technical Support Document

The results of this review will be shown in a document entitled ''Technical Support Document,'' which will be available in the docket at the locations noted above. The technical support documentation shows that all operating permits program requirements of 40 CFR part 70 and relevant guidance were met by the submittal with the exception of those requirements described below.

7. Summary

The State of Oklahoma submitted to the EPA, under a cover letter from the Governor, the State's operating permits program on January 7, 1994. The submittal has adequately addressed all sixteen elements required for full approval as discussed in part 70 with the exception of the issues described in section B below. The State of Oklahoma addressed appropriately all requirements necessary to receive source category-limited interim approval of the State operating permits program pursuant to title V of the Act, 1990 Amendments and 40 CFR part 70. The EPA is proposing source category-limited interim approval for the part 70 program submittal for the State of Oklahoma.

B. Options for Approval/Disapproval and Implications

The EPA is proposing to grant source category-limited interim approval to the operating permits program submitted by the State of Oklahoma on January 7, 1994. Interim approvals under section 502(g) of the Act do not create any new requirements, but simply approve requirements that the State is already imposing.

If promulgated, the State must make the following changes to receive full approval:

(1) Criminal Penalty Cap

As discussed in section A.1 above, the State must provide a supplemental Attorney General's Opinion to clarify the implementation of the criminal penalty statute in such a way that preserves the integrity of the Act. This supplement must be submitted to the EPA before final action on this proposal is taken.

(2) Definition of ''Major Source''

As discussed in section A.2.a above, the State must revise OAC 252:100–8–2, ''major source'' by deleting paragraph (4). This revision will make the definition consistent with the rule at part 70. Also, the State must revise the regulations to reflect the transition schedule proposed for source category-limited interim approval.

(3) Revision of Insignificant Activities

As discussed in section A.2.a above, the State must amend the language at OAC 252:100–8–3(e) so that the insignificant emissions rate of 1 lb/hr for criteria pollutants will be based on potential to emit instead of actual emissions. Further, the language at OAC 252:100–8–3(e)(3) must be revised to delete the allowance of any percentage of a permit limit or change in the potential to emit as an insignificant emission level. Also, an application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required. Further, any list of insignificant activities or trivial activities must be approved by the EPA prior to its use, as required at 40 CFR 70.5(c).

(4) Revision of Permit Content

The regulations at OAC 252:100–8–6(a) must be revised to remove the phrase ''To the extent practicable. . .'' Until this revision is made, the permits issued by the State shall meet the requirements of 40 CFR 70.6 and include all applicable requirements.

(5) Revision to Provide Standing

As discussed in section A.2.c above, the State must revise OAC 252:100–8–7(i)(1)(E) and OAC 252:100–8–7(j)(2)(A) to delete the word ''written'' so that oral comments have standing with judicial review of the permitting process. Also, the State must clarify OAC 252:100–8–7(j) so that judicial review is available to all affected parties for all final permit actions including minor modifications and administrative amendments.

(6) Administrative Amendment Procedure

As discussed in section A.2.d above, the State must revise OAC 252:100–8–7(d)(1)(C) to delete the words, ''. . . or less . . .''. Further, the provisions at OAC 252:100–8–7(d)(1)(E) must be clarified to require enhanced NSR procedures that are substantially equivalent to the requirements of 40 CFR 70.7 and 40 CFR 70.8 for a change subject to review as a permit modification and compliance requirements substantially equivalent to those contained in 40 CFR 70.6. The State must submit a SIP revision for Subchapter 7 that incorporates enhanced NSR procedures that meet the requirements listed at 40 CFR 70.7 and 40 CFR 70.8 for a change subject to review as a permit modification, and has compliance requirements substantially equivalent to those contained in 40 CFR 70.6.

(7) Review of the Fee

As discussed in section A.3 above, the EPA has reviewed the workload analysis and fee demonstration submitted November 7, 1994, and is recommending approval of the proposed fee of $15.19 per ton. The EPA will consider comments made during the comment period for this approval action and will reserve final action on the fee for the final interim approval notice.

(8) Acid Rain Incorporation by Reference

As discussed in section A.4 above, the State must revise OAC 252:100–8 to incorporate the acid rain requirements and submit this revision to the EPA before final action on this proposal is taken.

Evidence of these regulatory revisions and their procedurally correct adoption must be submitted to the EPA within 18 months of the EPA's approval of the Oklahoma part 70 program. This interim approval, which may not be renewed, extends for a period of up to two years. During the interim approval period, the State is protected from sanctions for failure to have a program, and the EPA is not obligated to promulgate a Federal permits program in the State. Permits issued under a program with interim approval have full standing with respect to 40 CFR part 70, and the State will permit sources based on the transition schedule submitted with the source category-limited approval request. This schedule may extend for no more than five years beyond the interim approval date.

If the interim approval is converted to a disapproval, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, the EPA's disapproval of the submittal does not impose a new Federal requirement.

The scope of Oklahoma's part 70 program that the EPA proposes to approve in this notice would apply to all part 70 sources (as defined in the approved program) within the State of Oklahoma, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, *e.g.*, 59 FR 55813, 55815–18 (November 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the Act; *see also* 59 FR 43956, 43962 (August 25, 1994); 58 FR 54364 (October 21, 1993).

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) approval requirements for delegation of section 112 standards as promulgated by the EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under Part 70. Therefore, the EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR part 63.

III. Proposed Rulemaking Action

In this action, the EPA is proposing source category-limited interim approval of the part 70 program submitted by the State of Oklahoma. The program was submitted by the State to the EPA for the purpose of complying with Federal requirements found at the 1990 Amendments, title V and at part 70, which mandates that States develop, and submit to the EPA, programs for issuing operating permits to all major stationary sources and certain other sources, with the exception of Indian country. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

The EPA has reviewed this submittal of the Oklahoma part 70 program and is proposing source category-limited interim approval. Certain defects in the State's regulations preclude the EPA from granting full approval of the State's part 70 program at this time. The EPA is proposing to grant interim approval, subject to the State obtaining the needed regulatory revisions within 18 months after the Administrator's approval of the Oklahoma title V program pursuant to 40 CFR 70.4.

IV. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed rule. Copies of the State's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, the EPA in the development of this proposed rulemaking. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the rulemaking process; and

(2) To serve as the record in case of judicial review. The EPA will consider any comments received by April 10, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities, (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial

number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Part 70 program approvals under section 502 of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal part 70 program approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the EPA to base its actions concerning part 70 programs on such grounds, (Union Electric Co. v. U.S. E.P.A., 427 U.S. 246, 256–66 (S.Ct 1976); 42 U.S.C. section 7410(a)(2)).

List of Subjects in 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Checklist, Environmental protection, Intergovernmental relations, Memorandum of understanding, Operating permits, Options for approval/disapproval and implications, Permit fee demonstration.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 22, 1995.

William B. Hathaway,

Acting Regional Administrator (6M).

[FR Doc. 95–5981 Filed 3–9–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 761

[OPPTS–660019B; FRL–4938–5]

Disposal of Polychlorinated Biphenyls (PCBs); Notice of Informal Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Informal Hearing.

SUMMARY: On December 6, 1994, EPA's Office of Pollution Prevention and Toxics published a proposed rule [59 FR 62788] to amend its rules under the Toxic Substances Control Act (TSCA) for polychlorinated biphenyls (PCBs). Changes proposed by EPA would affect the disposal, marking, storage, use, reporting and recordkeeping requirements for PCBs. In that notice, EPA said it would conduct one or more informal public hearings in the Washington, DC, area on the proposal, to be held after the closure of the written comment period on April 6, 1995. This notice announces the time and location of that hearing.

DATES: The hearing will take place on Tuesday, May 2, 1995, from 9:00 a.m. to 5:00 p.m. If necessary, the hearing will be extended to 9:30 p.m., and it may also be continued the following day, Wednesday, May 3, 1995, beginning at 9:00 a.m. Written requests to participate in the hearing must be received on or before April 6, 1995.

ADDRESSES: The hearing will be held at the Holiday Inn of Arlington at Ballston, 4610 North Fairfax Drive, Arlington, Virginia 22203, telephone (703) 243–9800. Three copies of the request to participate in the informal hearing, identified with the docket number OPPTS–660019B must be submitted to: OPPT Document Control Officer, Attn: TSCA Docket Receipts (7407), Office of Pollution Prevention and Toxics, Rm. G–99, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. See SUPPLEMENTARY INFORMATION for the type of information that must be included in the request and who may participate. Statements must be limited to 15 minutes. Requests for a waiver to participate in the informal hearing by those organizations that did not file main comments must be sent to EPA Headquarters Hearing Clerk, Mail Code 7404, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E–543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551, FAX: (202) 554–5603 (document requests only).

SUPPLEMENTARY INFORMATION: The procedures for rulemaking under section 6 of the Toxic Substances Control Act (TSCA) are identified in 40 CFR part 750, subpart A. The following summarizes the procedures and logistics associated with this informal hearing pursuant to 40 CFR part 750. Participants and/or commenters are advised to see 40 CFR part 750 for greater detail. Each person or organization desiring to participate in the informal hearing shall file a written request to participate with the OPPT Document Control Officer (see ADDRESSES above). The request shall be received on or before April 6, 1995. The request shall include: (1) A brief statement of the interest of the person or organization in the proceeding; (2) a brief outline of the points to be addressed; (3) an estimate of the time required (not to exceed 15 minutes); and (4) if the request comes from an organization, a nonbinding list of the persons to take part in the presentation. An organization that has not filed main comments on the rulemaking will not be allowed to participate in the hearing, unless a waiver of this requirement is granted by the Record and Hearing Clerk (see ADDRESSES above) or the organization is appearing at the request of EPA or under subpoena (40 CFR 750.6(a)).

A panel of EPA employees shall preside at the hearing, and one panel member will chair the proceedings. The panel may question any individual or group participating in the hearing on any subject relating to the rulemaking. Cross-examination will normally not be permitted at this stage. However, persons in the hearing audience may submit questions in writing for the hearing panel to ask the participants, and the hearing panel may, at their discretion, ask these questions (40 CFR 750.7(a) and (b)). See 40 CFR 750.7(c) for the rule governing the submission of additional material by the hearing participants.

After the close of the hearing, any participant in the hearing may submit a written request for cross-examination. The request shall be received by EPA no later than 1 week after a full transcript of the hearing becomes available (to determine when the transcript is available, interested persons may contact the Environmental Assistance Division (see FOR FURTHER INFORMATION CONTACT above)). See 40 CFR 750.8 for a description of the information that shall be included in such a request.

Interested persons may file reply comments. Reply comments shall be received no later than 2 weeks after the close of all informal hearings, including any hearing to allow cross-examination. Reply comments shall be restricted to comments on: (1) other comments; (2) material in the hearing record; and (3) material which was not and could not reasonably have been available to the commenting party a sufficient time before main comments were due on April 6, 1995. (40 CFR 750.4(a) and (b)). Extensions of time for filing reply comments may be granted pursuant to 40 CFR 750.4(c). Reply comments and a transcript of the hearing will be placed in the Nonconfidential Information Center as part of the rulemaking record for the proposed rule (docket number OPPTS–660019B). A full list of these materials is available for inspection and copying in the TSCA Nonconfidential Information Center, Rm. B607, Northeast Mall, 401 M St., SW.,

Washington, DC, from 12 noon to 4 p.m. However, any information claimed as Confidential Business Information (CBI) that is part of the record for this rulemaking is not available for public review. A public version of the record, from which information claimed as CBI has been excluded, is available for inspection. The address for the TSCA Docket Receipts appears under the ''ADDRESSES'' section of this notice.

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and Recordkeeping requirements.

Dated: March 2, 1995.

Joseph S. Carra,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 95–5986 Filed 3–9–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7128]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base flood elevation modifications for the communities listed below. The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646–2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base (100-year) flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Connecticut	East Lyme (Town) New London County.	Latimer Brook	Approximately 0.3 mile downstream of Rock Fill Dam.	None	*79
			Approximately 1,100 feet upstream of Chapman Drive.	None	*98

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Office of Zoning Enforcement, Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut. Send comments to Mr. David L. Cini, First Selectman, Town of East Lyme, P.O. Box 519, Niantic, Connecticut 06357.					
Connecticut	Montville (Town) New London County.	Latimer Brook	Approximately 280 feet downstream of Silver Falls Road.	None	*99
			Approximately 380 feet upstream of Beckwith Road.	None	*150
		Trading Cove Brook	Approximately 300 feet upstream of confluence of Ford Brook and Great Plain Brook.	*29	*30
			Approximately 300 feet upstream of the confluence of Goldmine Brook.	*70	*71
Maps available for inspection at the Office of Planning and Zoning, 310 Norwich-New London Turnpike, Uncasville, Connecticut. Send comments to The Honorable Wayne Scott, 310 Norwich-New London Turnpike, Uncasville, Connecticut 06382.					
Kentucky	Pineville (City) Bell County.	Cumberland River	At downstream corporate limits approximately 0.52 miles downstream of Tennessee Avenue.	*1018	*1019
			At corporate limits approximately 530 feet upstream of Route 119.	*1025	*1027
		Straight Creek	At its confluence with Cumberland River	*1021	*1022
			At its upstream corporate limit, approximately 0.48 mile upstream of its confluence with Cumberland River.	*1021	*1022
Maps available for inspection at the City Hall, Corner of Walnut and Virginia, Pineville, Kentucky. Send comments to The Honorable Robert L. Madon, Mayor of the City of Pineville, Bell County, P.O. Box 688, Pineville, Kentucky 40977.					
Maine	Madison (Town) Somerset County.	Kennebec River	At downstream corporate limits	*184	*193
			At approximately 500 feet upstream of upstream corporate limits.	*272	*275
		Jones Brook	At confluence with Kennebec River	*231	*234
			At approximately 0.66 mile downstream of Jones Street.	*275	*276
		Cold Brook	At approximately 1,800 feet downstream of Snowmobile bridge.	None	*205
			At approximately 30 feet upstream of Snowmobile bridge.	None	*206
		Hayden Brook	Approximately 50 feet upstream of the confluence with Wesserunsett (Hayden) Lake.	*337	*338
			At approximately 60 feet upstream of U.S. Route 201.	None	*357
		Unnamed Brook	At approximately 0.3 mile downstream of U.S. Route 201.	None	*267
			At approximately 0.24 mile upstream of U.S. Route 201.	None	*319
Maps available for inspection at 26 Weston Avenue, Madison, Maine. Send comments to Mr. Richard Michaud, Manager of the Town of Madison, Somerset County, P.O. Box 190, Madison, Maine 04950.					
Michigan	Midland (City) Bay and Midland Counties.	Chippewa River	At corporate limits (approximately 2.58 miles upstream of the confluence with Tittabawassee River).	None	*617
			Approximately 1 mile upstream of corporate limits (approximately 3.53 miles upstream of the confluence with Tittabawassee River).	None	*617
		Inman Drain	At Dublin Road	None	*616
			Approximately 1,375 feet upstream of Dublin Road.	None	*617
		Sturgeon Creek	Approximately 0.4 mile upstream of Cemetary Entrance Road.	None	*616
			Approximately 0.5 mile upstream of Cemetary Entrance Road.	None	*616
		Tittabawassee River	East of Miller Road	None	*612
			At Dublin Road to approximately 1.2 miles upstream of Dublin Road.	None	*617

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Midland City Planning Department, City Hall, 333 West Ellsworth, Midland, Michigan.					
Send comments to Mr. Karl Tomion, Midland City Manager, 333 West Ellsworth, Midland, Michigan 48640.					
Michigan	Montrose (Township) Genesee County.	Armstrong Creek	At confluence with Flint River	None	*626
			At Frances Road	*679	*683
		Flint River	Approximately 3.1 miles upstream of Willard Road.	None	*619
			Approximately 3.0 miles upstream of the confluence of Armstrong Creek.	None	*637
Maps available for inspection at the Office of the Township of Montrose, 139 South Saginaw Street, Montrose, Michigan.					
Send comments to Mr. Mark Walker, Township of Montrose Supervisor, 139 South Saginaw Street, Montrose, Michigan 48457.					
New Jersey	Delran (Township) Burlington County.	Swedes Run	Approximately 0.82 mile uptream of Broad Street.	*11	*12
			Approximately 850 feet upstream of Bridgeboro Road.	31	*34
Maps available for inspection at the Township Clerk Office, 1050 Chester Avenue, Delran, New Jersey.					
Send comments to The Honorable Thomas A. DiLauro, Mayor of the Township of Delran, 1050 Chester Avenue, Delran, New Jersey 08075.					
New York	Schroon (Town) Essex County.	Schroon Lake	Paradox CreekEntire shoreline within community.	None	*812
		Paradox Lake	Entire shoreline within community	None	*824
		Schroon River	At confluence with Schroon Lake	None	*812
			At the upstream side of U.S. Route 9	None	*833
		Paradox Creek	At confluence with Schroon River	None	*823
			At downstream side of Fraternaland Road	None	*846
Maps available for inspection at the Town Hall, South Street, Schroon Lake, New York.					
Send comments to Mr. John J. Kelly, Supervisor of the Town of Schroon, Town Hall, P.O. Box 578, Schroon, New York 12870.					
New York	Wilmington (Town) Essex County.	West Branch Ausable River.	Approximately 270 feet downstream of downstream corporate limit.	None	*805
			At State Route 86 (upstream crossing)	None	*1075
Maps available for inspection at the Community Center, Springfield Road, Wilmington, New York.					
Send comments to The Honorable Tom Sibalski, Town of Wilmington Supervisor, P.O. Box 180, Community Center, Springfield Road, Wilmington, New York 12997.					
North Carolina	McDowell County Unincorporated Areas.	Catawba River	At Yancey Road	*1210	*1202
			Approximately 2.6 miles upstream of State Route 1273.	*1532	*1525
		Mill Creek	Approximately 1,350 feet upstream of Norfolk Southern Railway.	*1454	*1449
			Approximately 0.4 mile upstream of State Route 1401.	*1487	*1483
Maps available for inspection at the McDowell County Administration Building, 10 East Court, Marion, North Carolina.					
Send comments to Mr. Charles Abernathy, McDowell County Manager, 10 East Court, Marion, North Caroliina 28752.					
North Carolina	Old Fort (Town) McDowell County.	Catawba River	At the confluence of Curtis Creek	*1378	*1375
			Approximately 1,300 feet downstream of Catawba Avenue.	*1421	*1412
		Mill Creek	At the confluence with the Catawba River	*1416	*1409
			At the State Route 1119	*1459	*1455
Maps available for inspection at the Old Fort City Hall, 106 South Catawba, Old Fort, North Carolina.					
Send comments to The Honorable Wayne Stafford, Mayor of the Town of Old Fort, P.O. Box 908, Old Fort, North Carolina 28762.					
Pennsylvania	Allenport (Borough) Washington County.	Monongahela River	Approximately 0.4 mile downstream of Tributary 1.	*763	*766
			Approximately 2.3 miles upstream of confluence of Hooders Run	*765	*768

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Borough Building, Main Street, Allenport, Pennsylvania.					
Send comments to The Honorable Dennis Martinak, Mayor of the Borough of Allenport, P.O. Box 47, Allenport, Pennsylvania 15412.					
Pennsylvania	Belle Vernon (Borough) Fayette County.	Monongahela River	Approximately 40 feet upstream of bridge (I–70) (at downstream corporate limit).	*762	*764
			Approximately 0.88 mile upstream of bridge (I–70) (at upstream corporate limit)	*763	*765
Maps available for inspection at the Borough Hall, 61 Sampson Street, Belle Vernon, Pennsylvania.					
Send comments to The Honorable Frank Ferreri, Mayor of the Borough of Belle Vernon, 61 Sampson Street, Belle Vernon, Pennsylvania 15012.					
Pennsylvania	Brownsville (Borough) Fayette County.	Monongahela River	Approximately 0.38 mile downstream of U.S. Route 40 bridge.	*771	*774
			Approximately 1.06 miles upstream of Bridge Street bridge	*772	*775
		Dunlap Creek	At confluence with Monongahela River	*771	*775
			Approximately 0.85 mile upstream of Brownsville Avenue bridge.	*771	*775
Maps available for inspection at the Borough Hall, 2nd and High Street, Brownsville, Pennsylvania.					
Send comments to The Honorable Sam Nicola, Mayor of the Borough of Brownsville, 2nd and High Street, Brownsville, Pennsylvania, 15417.					
Pennsylvania	Brownsville (Township) Fayette County.	Monongahela River	Approximately 1,500 feet downstream of Conrail Bridge.	*770	*774
			Approximately 47 miles upstream of Conrail Bridge	*771	*774
		Dunlap Creek	Approximately 750 feet downstream of Conrail Bridge.	*771	*775
			Approximately 1,870 feet downstream of Conrail Bridge.	*772	*775
		Redstone Creek	At the confluence with Monongahela River.	*770	*774
			Approximately 0.83 mile upstream of Conrail Bridge.	*770	*774
Maps available for inspection at the Tax Collector's Office, Union Street, Brownsville, Pennsylvania.					
Send comments to Mr. Homer Yeardie, Chairman of the Board of Supervisors, 220 Lynn Road, Brownsville, Pennsylvania 15417.					
Pennsylvania	Carroll (Township) Washington County.	Monongahela River	Downstream corporate limits	*755	*756
			Approximately 525 feet upstream of upstream corporate limits	*760	*761
		Pigeon Creek	At State Route 481	*755	*756
			Approximately 0.9 mile downstream of State Route 481.	*755	*756
Maps available for inspection at the Township Hall, 130 Baird Street, Carroll, Pennsylvania.					
Send comments to Mr. Lewis Resovich, Chairman of the Township of Carroll Board of Supervisors, 130 Baird Street, Monongahela, Pennsylvania 15063.					
Pennsylvania	Centerville (Borough) Washington County.	Monongahela River	Approximately 1.70 miles downstream of the confluence of Two Mile Run.	*772	*775
			Approximately 1.57 miles upstream of Maxwell Locks and Dam	*778	*781
Maps available for inspection at the Borough Building, National Pike West, Centerville, Pennsylvania.					
Send comments to The Honorable Iris Holleran, Mayor of the Borough of Centerville, 176–D, R.D. One, Fredericktown, Pennsylvania 15333.					
Pennsylvania	Dickinson (Township) Cumberland County.	Yellow Breeches Creek	Approximately 1,050 feet downstream of Burnthouse Road (T–474).	None	*533
			At upstream corporate limits	None	*597
		Yellow Breeches Creek Northern Split.	At confluence with Yellow Breeches Creek.	None	*558
			At divergence from Yellow Breeches Creek.	None	*569

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Township Building, 219 Mountain View Road, Mount Holly Springs, Pennsylvania.					
Send comments to Ms. Deborah K. Westbrook, Secretary/Treasurer of the Township of Dickinson Board of Supervisors, 219 Mountain View Road, Mount Holly Springs, Pennsylvania 17065–1503.					
Pennsylvania	Eulalia (Township) Potter County.	Allegheny River	Approximately 700 feet downstream of the Township of Eulalia's downstream corporate limits.	None	*1579
			Approximately 0.4 mile upstream of the Township of Eulalia's upstream corporate limits.	None	*1632
Maps available for inspection with Ms. June Bunnell, Township Secretary, RD 3, Coudersport, Pennsylvania.					
Send comments to Mr. James Lane, Chairman of the Township of Eulalia, RD 1, Coudersport, Pennsylvania 16915.					
Pennsylvania	Fayette City (Borough) Fayette County.	Monongahela River	At the downstream corporate limits (Approximately 675 feet downstream of Downers Run).	*764	*766
			At the upstream corporate limits (Approximately 1,050 feet upstream of Lamb Lick Run)	*764	*767
Maps available for inspection at the Borough Hall, 238 Main Street, Fayette City, Pennsylvania.					
Send comments to The Honorable Herbie Vargo, Mayor of the Borough of Fayette City, 238 Main Street, Fayette City, Pennsylvania 15438.					
Pennsylvania	Henderson (Township) Hutingdon County.	Juniata River	Approximately 0.57 mile upstream of State Route 829.	*603	*602
			At upstream corporate limits	*618	*614
Maps available for inspection at the Chairman of the Board of Supervisors Home, R.D. 3, Box 223, Huntingdon, Pennsylvania.					
Send comments to Mr. William L. Snyder, Chairman of the Board of Supervisors for the Township of Henderson, Huntingdon County, R.D. 3, Box 223, Huntingdon, Pennsylvania 16652.					
Pennsylvania	Newell (Borough) Fayette County.	Monongahela River	At downstream corporate limits	*768	*769
			At upstream corporate limits	*766	*771
Maps available for inspection at the Newell Borough Building, Second Street, Fayette City, Pennsylvania.					
Send comments to The Honorable Albert Staley, Mayor of the Borough of Newell, 244–L, R.D. 1, Box 522, Fayette City, Pennsylvania 15438.					
Pennsylvania	North Charleroi (Borough) Washington County.	Monongahela River	Downstream corporate limits (approximately 1,000 feet downstream of North Charleroi bridge).	*760	*761
			Upstream corporate limits (approximately 1,600 feet upstream of Monessen North Charleroi bridge)	*760	*762
Maps available for inspection at the Borough Secretary's Office, 301 Isabelle Avenue, North Charleroi, Pennsylvania.					
Send comments to The Honorable Henry J. Michaloski, Mayor of the Borough of North Charleroi, 452 Isabelle Avenue, North Charleroi, Pennsylvania 15022.					
Pennsylvania	Rices Landing (Borough) Greene County.	Monongahela River	Approximately 0.9 mile downstream of the confluence of Pumpkin Run (At the downstream corporate limits).	*781	*785
			Approximately 0.88 mile upstream of the confluence of Pumpkin Run (At the upstream corporate limits)	*783	*786
Maps available for inspection at the Borough Building, 100 Water Street, Rices Landing, Pennsylvania.					
Send comments to Ms. Linda Smith, Emergency Coordinator for the Borough of Rices Landing, 137 Main Street, Rices Landing, Pennsylvania 15357.					
Pennsylvania	Roscoe (Borough) Washington County.	Monongahela River	Downstream corporate limits	*765	*768
			Upstream corporate limits	*766	*769
Maps available for inspection at the Borough Secretary's Office, 503 Underwood Street, Roscoe, Pennsylvania.					
Send comments to The Honorable Harold J. Donaldson, Mayor of the Borough of Roscoe, Washington County, P.O. Box 83, Roscoe, Pennsylvania 15477.					
Pennsylvania	Speers (Borough) Washington County.	Monongahela River	Approximately 0.70 mile downstream of CONRAIL bridge.	*762	*764
			Approximately 0.75 mile upstream of Interstate 70	*763	*765

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Borough Building, 300 Phillips Street, Speers, Pennsylvania. Send comments to The Honorable Joseph Hurley, Mayor of the Borough of Speers, 330 Phillips Street, Speers, Pennsylvania 15022.					
Pennsylvania	Stockdale (Borough) Washington County.	Monongahela River	Downstream corporate limits	*765	*767
			Upstream corporate limits	*765	*768
Maps available for inspection at the Borough Building, 438 Locust Street, Stockdale, Pennsylvania. Send comments to The Honorable Gary Pascoe, Mayor of the Borough of Stockdale, 438 Locust Street, Stockdale, Pennsylvania 15483.					
Pennsylvania	Union (Township) Washington County	Monongahela River	At downstream corporate limits	*751	*752
			At upstream corporate limits	*753	*755
Maps available for inspection at the Municipal Building, Finleyville-Elrama Road, Union, Pennsylvania. Send comments to Mr. Larry A. Spahr, Chairman of the Township of Union Board of Supervisors, P.O. Box 43, Gastonville, Pennsylvania 15336.					
Rhode Island	Warren (Town) Bristol County	Palmer River	Approximately 400 feet north of the intersection of North Main Street and Crescent Street.	*12	*10
			At the confluence with Barrington and Warren Rivers.	*18	*14
		Warren River	Approximately 600 feet west from the intersection of Johnson Street and Westminster Street.	*18	*14
			Approximately 1,000 feet west of the intersection of Bridge Street with CONRAIL.	*19	*18
		Kickamuit River	Approximately 1,000 feet north from the intersection of Bardbury Street and Touisset Point.	*15	*18
Maps available for inspection at the Town Hall, 514 Main Street, Warren, Rhode Island. Send comments to Mr. Walter S. Felag, President of the Town of Warren Council, 514 Main Street, Warren, Rhode Island 02885.					
Tennessee	Lauderdale County Unincorporated Areas	Cane Creek	Approximately 105 feet upstream of U.S. Route 51.	*324	*323
			At Illinois Central Gulf Railroad	*334	*335
Maps available for inspection at the Lauderdale County Executive's Office, County Courthouse, 100 Court Square, Ripley, Tennessee. Send comments to Mr. Rozelle Criner, Lauderdale County Executive, County Courthouse, 100 Court Square, Ripley, Tennessee 38063.					
West Virginia	Westover (City) Monongalia County.	Monongahela River Dents Run.	At confluence of Dents Run	*812	*813
			Approximately 560 feet upstream of U.S. Route 19 (Westover Bridge)	*813	*814
		Dents Run	At confluence with Monongahela River	*812	*813
			Approximately 0.71 mile above confluence with Monongahela River.	*812	*813
Maps available for inspection at the City Hall, 500 Dupont Road, Westover, West Virginia. Send comments to The Honorable Sheila Landis, Mayor of the City of Westover, 500 Dupont Road, Westover, West Virginia 26505.					
Wisconsin	Clintonville (City) Waupaca County.	Honey Creek	Just upstream of South Main Street	None	*812
			Just downstream of West 1st Street	None	*820
		Pigeon River	Approximately 50 feet upstream of Klemp Road.	*795	*794
			Just upstream of Hemlock Street	*809	*808
Maps available for inspection at the City Hall, 50 Tenth Street, Clintonville, Wisconsin. Send comments to The Honorable Gib Johnson, Mayor of the City of Clintonville, 50 Tenth Street, Clintonville, Wisconsin 54929.					
Wisconsin	Ephraim (Village) Door County.	Lake Michigan (Green Bay).	Entire shoreline within the community	None	*585
Maps available for inspection at the Village of Ephraim Administration Office, 10005 Norway Road, Ephraim, Wisconsin. Send comments to Ms. Diane Kirkland, Village of Ephraim Zoning Administrator, Box 138, Ephraim, Wisconsin 54211.					
Wisconsin	Platteville (City) Grant County.	Roundtree Branch	Approximately 0.12 miles downstream Southwest Road bridge.	None	*852
			Approximately 0.23 miles upstream 500 Line Railroad bridge.	None	*931

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Department of Community Planning and Development, 75 North Bonson Street, Platteville, Wisconsin. Send comments to Ms. Rosemarie E. Kulow, Platteville City Manager, 75 North Bonson Street, P.O. Box 780, Platteville, Wisconsin 53818–0780.					
Wisconsin	Verona (City) Dane County.	Badger Mill Creek	Approximately 1,300 feet downstream of Bruce Street.	*937	*939
			Approximately 740 feet upstream of the upstream corporate limits.	*950	*951
		Dry Tributary to Badger Mill Creek.	Approximately 1,200 feet downstream of the Chicago and Northwestern Railroad.	None	*938
			Approximately 1,200 feet upstream of Edward Street.	None	*973
Maps available for inspection at the Building Inspection Department, 116 Paoli Street, Verona, Wisconsin. Send comments to The Honorable Arthur Cresson, Mayor of the City of Verona, P.O. Box 930188, Verona, Wisconsin 53593–0188.					
Wisconsin	Watertown (City) Dodge and Jefferson Counties.	Rock River	At downstream corporate limits	*793	*792
			Approximately 0.9 mile upstream of Oconomowoc Avenue	None	*826
		Silver Creek	At Spaulding Street	*812	*813
			At upstream corporate limits	None	*824
Maps available for inspection at the Engineering Department, 106 Jones Street, Watertown, Wisconsin. Send comments to The Honorable Frederick Smith, Mayor of the City of Watertown, 106 Jones Street, Watertown, Wisconsin 53094.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: March 1, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95–5974 Filed 3–9–95; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[ET Docket No. 94–32; FCC No. 95–47]

Allocation of Spectrum Below 5 GHz Transferred From Federal Government Use

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Second Notice of Proposed Rule Making, proposes rules to govern assignment and use of the 50 megahertz of spectrum transferred from Federal Government use to private use and allocated in the companion First Report and Order, published elsewhere in this issue. This action is necessary to comply with provisions of the Omnibus Budget Reconciliation Act of 1993 (Reconciliation Act), that require the Commission to allocate, and propose regulations to assign, this spectrum within 18 months of adoption of the Reconciliation Act. Our goal in taking this action is to provide for use of spectrum transferred from Federal Government to private sector use in a way that will benefit the public by providing for the introduction of new services and devices and enhance existing services and devices.

DATES: Comments must be filed on or before March 20, 1995, and reply comments must be filed on or before April 4, 1995.

ADDRESSES: Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Karen Rackley, Wireless Telecommunication Bureau, (202) 418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Notice of Proposed Rule Making, ET Docket No. 94–32, FCC No. 95–47, adopted February 7, 1995, and released February 17, 1995 (Notice). The full text of this Notice is available for inspection during normal business hours in the Records Room of the Federal Communications Commission, Room 239, 1919 M St., NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St., NW., Suite 140, Washington, DC 20037, telephone (202) 857–3800.

Summary of Second Notice of Proposed Rule Making

1. By this action, the Commission proposes rules governing the use of 50 megahertz of spectrum, at 2390–2400 MHz, 2402–2417 MHz, and 4660–4685 MHz, that has been transferred from Federal Government to private sector use. In the First Report and Order, the Commission allocated the 2390–2400 MHz band for use by unlicensed Personal Communications Services (PCS) devices, provided for continued use of the 2402–2417 MHz band by devices operating in accordance with Part 15 of the Commission's Rules allocated both of these bands for use by the Amateur service on a primary basis, and allocated the 4660–4685 MHz band for use by Fixed and Mobile services.

2390–2400 MHz

2. Because the Commission already has rules in place governing unlicensed PCS, the Notice does not seek additional comment on services rules. The Notice, however, seeks comment on whether some allowance should be made to accommodate operations that combine use of the 2390–2400 MHz with the adjacent 2400–2483.5 MHz band for use as a single, large Part 15 band. The Notice proposes to specifically prohibit aeronautical use of unlicensed PCS devices operating at 2390–2400 MHz as requested by some commenters, but does not proposed to restrict use of unlicensed PCS devices in the vicinity of the National Astronomy and Ionospheric Center. Finally, the Notice requests comment on whether it is unnecessary to propose any formal standards for sharing between unlicensed PCS and Amateur service, whether there is a need to restrict certain uses by either the Amateur

service or unlicensed PCS devices that might be particularly disruptive, or whether the Commission should seek to implement rules for coordination of Amateur/PCS use.

2402–2417 MHz

3. Both the Amateur service and Part 15 devices operating at 2402–2417 MHz continue to be governed in accordance with current applicable technical and operational rules. However, the Commission seeks comment on whether any changes should be made to the Commission's rules to facilitate use of this band by the Amateur service and Part 15 devices.

4660–4685 MHz

A. Service Rules

4. The Notice proposes to create the General Wireless Communications Service (GWCS), a new service for licensing of the 4660–4685 MHz band, which would allow a licensee to provide any Fixed or Mobile service, consistent with the allocation of this band and the Commission's proposed rules described below. The Notice also seeks comment on the possibility of better accommodating the needs of users by prescribing rules that provide for utilization of the 4660–4685 MHz frequency band only by specific services.

B. Use of Spectrum

5. The Notice tentatively concludes that the principal use of this spectrum under the proposed General Wireless Communications Service will involve or is reasonably likely to involve the receipt by the licensee of compensation from subscribers in return for enabling those subscribers to receive or transmit communications signals, thus enabling the Commission to propose competitive bidding as the assignment method for this spectrum. To help the Commission make an accurate determination regarding the extent to which this spectrum will be used for subscriber-based services, the Notice requests that commenters describe their spectrum needs and provide an indication of the degree of competition expected within a particular geographic service area, because the likelihood of subscriber use may vary among geographic areas.

C. Assignment Methods

6. Sections 309(j)(1) and 309(j)(2) of the Communications Act permit auctions where mutually exclusive applications for initial licenses or construction permits are accepted for filing by the Commission and where the principal use of the spectrum will involve or is reasonably likely to involve the receipt by the licensee of compensation from subscribers in return for enabling those subscribers to receive or transmit communications signals. As described in the preceding section, the Commission believes that the principal use of this spectrum will meet these requirements. In order to comply with Section 309(j)(2)(b) of the Communications Act, the Notice also tentatively concludes that the use of competitive bidding to assign licenses in the 4660–4685 MHz band bill promote the objectives described in Sections 1 and 309(j)(3) of the Communications Act. Thus, the Commission tentatively concludes that competitive bidding should be used to award licenses in the 4660–4685 MHz band in the new General Wireless Communications Service if mutually exclusive applications are filed.

7. Although the Notice proposes the use of a system of competitive bidding to assign licenses for the General Wireless Communications Service in the 4660–4685 MHz band, the Commission also seeks comment regarding whether the Commission should utilize a different assignment method.

8. One important aspect of any assignment method is determining whether applications are mutually exclusive. The Notice proposes to use a 30-day filing window or other application cut-off method to allow for competing initial applications. The Notice seeks comment on this proposal, particularly whether some other type of filing group would be more appropriate for determining whether initial applications are mutually exclusive.

D. Channelization; Aggregation

9. The Notice proposes that the 4660–4685 MHz band be licensed in five blocks, each of which would be 5 megahertz wide. Based on available information about the likely services to be provided in this band, the Commission tentatively concludes that no licensee would need more than 15 megahertz in a single market area. Therefore, the Notice proposes to limit a single entity from obtaining more than three of these blocks in a single geographic licensing area. The Commission also proposes that, regardless of the specific service to be provided, this spectrum will not count against the 45 MHz spectrum cap that applies to certain commercial mobile radio service (CMRS) licensees.

E. License Area

10. The Notice proposes that all licenses issued in the GWCS be based on Major Trading Areas (MTA). The Commission does not propose to restrict the number of MTAs in which a party may obtain a license. Because an MTA may be too large for some licensees, the Notice proposes to permit licensees to lease the rights to operate a general wireless communication system within portions of their authorized geographic service area or transfer a portion of their license to geographically partition their service area, allowing another party to be licensed in the partitioned area.

11. If the Commission determines that a mix of subscriber, non-subscriber, and private-based services is likely in the 4660–4685 MHz band, the Commission may issue licenses based on different geographic regions for different portions of the bands or for different areas of the Nation. Commenters that seek spectrum for non-subscriber based services should address the issue of whether the Commission should allow licensees to sell or lease their excess capacity and specify under what circumstances such transfer or lease would be allowed.

F. Eligibility

12. If the Commission determines that it is reasonably likely that the services to be provided will be commercial services, the Notice proposes no restrictions on eligibility to apply for licenses in this band other than those foreign ownership restrictions that apply to CMRS and common carrier fixed system licensees, and the restriction on foreign governments or their representatives related to the holding of private service licenses.

G. Competitive Bidding Issues

13. The Notice proposed that, to the extent that the Commission determines that it is reasonably likely that some or all of the 4660–4685 MHz band will be used for services that meet the criteria for issuing licenses pursuant to auctions, the Commission will use auctions to issue licenses. The Commission believes that simultaneous multiple round bidding should be the preferred method for licensing of the proposed 5 MHz-wide MTA spectrum blocks. The Notice tentatively concludes that simultaneous multiple round bidding is most likely to award MTA licenses to bidders who value them the most highly and who are most likely to deploy new technologies and services rapidly. The Notice asks commenters to address this tentative conclusion and whether any other competitive bidding designs might be more appropriate for the licensing of this spectrum.

14. In addition, the Notice also seeks comments on which blocks should be auctioned together, the intervals between rounds in each auction, and the sequencing of each auction. The

Commission's tentative view is that all 255 licenses (51 MTA licenses on each of 5 spectrum blocks) should be auctioned simultaneously because of the relatively high value and significant interdependence of the licenses.

15. The Commission also seeks comment on bidding procedures to be used in the 4660–4685 MHz auctions, including bid increments, duration of bidding rounds, stopping rules, and activity rules. The Notice generally proposes to follow the procedural, payment, and penalty rules established in Subpart Q of Part I of the Commission's Rules, but seeks comment on whether any service-specific modifications of these rules are needed based on the particular characteristics of the 4660–4685 MHz band licenses.

16. In keeping with the general parameters set forth in the Competitive Bidding docket, PP Docket No. 93–253, the Notice proposes specific measures and eligibility criteria for small businesses, rural telephone companies, and minority- and women-owned businesses (collectively, ''designated entities'') in the 4660–4685 MHz band designed to ensure that such entities are given the opportunity to participate both in the competitive bidding process and in the provision of service in the 4660–4685 MHz band.

H. Technical Rules

17. The fact that the Commission is proposing a new radio service for this band that can be used to provide any mobile or fixed communications service, regardless of whether that service is subscriber based or not, argues for general minimal technical restrictions. Specifically, the Notice proposes to limit the field strength at licensees' service area boundaries to 55 dBu unless licensees operating in adjacent areas agree to higher field strengths along their mutual border. The Notice does not propose to establish adjacent-channel interference limits at the frequency boundaries between licensees in this band, but the Commission would encourage licensees to resolve adjacent channel interference problems. The Commission, however, proposes to require licensees to attenuate the power below the transmitter power (P) by at least 43 plus $101og_{10}(P)$ or 80 decibels, whichever is less, for any emission at the edges of the 4660–4685 MHz band. The Notice also requests comment on whether a maximum transmitter power or maximum effective radiated power is necessary or whether licensees should be permitted to use any power that they believe is appropriate, provided that they do not exceed the maximum permissible field strength at the border of their licensed area. Commenters should also specifically address the need for out of band emission at the edges of the entire 4660–4685 MHz.

I. License Term

18. For services in the 4660–4685 MHz band, the Notice proposes to establish a term of 10 years for licenses in this band, with a renewal expectancy based on that of PCS and cellular telephone licensees. The Commission notes, however, the commenters have proposed using this band for auxiliary broadcast service and the statute requires that the term of any license for the operation of any auxiliary broadcast station or equipment must be concurrent with the term of the license for such primary television station. Therefore, commenters should address whether the Commission should allow differing license terms in this band.

J. Construction Requirements

19. The Notice proposes to require build-out rules modeled on those adopted for broadband PCS. Specifically, the Commission proposes that within five years, licensees in this band offer service to one-third of the population in the area in which they are licensed. Further, licensee would have to serve two-thirds of the population in the area in which they are licensed within ten years of being licensed. Failure by any licensee to meet these construction requirements will result in forfeiture of the license and the licensee will be ineligible to regain it.

K. Regulatory Status

20. The Communications Act and Commission regulation often apply differing requirements based on the type of service and the regulatory status of licensees. In addition recent changes to the Communications Act have created different standards for Fixed and Mobile services for determining the regulatory status of a licensee.

21. The Commission has decided to propose a new GWCS for the 4660–4685 band that would allow licensees to provide a variety or combination of Fixed and Mobile services. Under this service, both Fixed and Mobile applications would be permitted and an individual licensee could provide a number of Fixed and Mobile services. The commission notes that, under the proposed approach, it may be difficult to determine the regulatory status of each licensee. The Notice proposes to rely on applicants to specifically identify the type of service or services they intend to provide, and that they include sufficient detail to enable the Commission to determine if the service will be Fixed or Mobile, and whether it will be offered as a commercial mobile radio service, a private mobile radio service, a common carrier Fixed service, or a private Fixed service. The Notice requests comment on the most efficient manner in which to administer the requirements of the Communications Act and the Commission's rules, and grant licensees as much operational flexibility as possible.

22. The Notice requests comment on whether the Commission should develop a new application long form for this GWCS or require an applicant to be responsible for filing the appropriate license application based upon the nature of the service designated by the applicant. Based on the showing made in the application form and actual service provided, the licensee would be subject to those rules and statutory requirements that apply to such service.

L. Licensing Issues

23. The Notice requests comment on whether the Commission is required or should find it is in the public interest to adopt additional licensing rules in order to comply with the statutory requirement that the Commission adopt assignment rules before August 10, 1995. For example, because some licensees may provide common carrier service, the Notice seeks comment on whether the Commission should adopt public notice and petition to deny procedures for some or all applicants in the 4660–4685 MHz band. The Notice requests comment on whether any existing application or regulatory fees would apply if the Commission develops a new service. In addition, the Notice requests comment on specific rules the Commission should adopt in order to implement Section 310(d) of the Communications Act for purposes of licensing services in the 4660–4685 MHz frequency

Initial Regulatory Flexibility Analysis

1. *Reason for Action:* The proposals for technical rules, service rules, and licensing mechanisms proposed in the Notice are for use of spectrum that has been transferred from Federal Government to private sector use. The Commission adopted allocations for this spectrum on February 7, 1995. Accordingly, these proposals are necessary to provide a structure for non-Government entities to use the spectrum.

2. *Objectives:* The Commission seeks to provide service rules, technical rules, and to issue licenses, for use of this spectrum in a manner that provides the greatest potential benefit to the public

by providing for the introduction of new services and the enhancement of existing services. These new and enhanced services will create new jobs, foster economic growth, and improve access to communications by industry and the American public.

3. *Legal Basis:* The legal basis for these rule changes is found in Section 4(i), 303(g), 303(r), 309(j), 322(a), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(g), 303(r), 309(j) (332)(a), and 403 and Section 115(a) of the National Telecommunications and Information Administration Organization Act, 47 U.S.C. 925(a).

4. *Reporting, Recordkeeping, and Other Compliance Requirements:* The proposals under consideration in this Notice of Proposed Rulemaking may impose certain reporting and recordkeeping requirements on licensees and others utilizing this spectrum.

5. *Federal Rules Which Overlap, Duplicate or Conflict With these Rules:* None.

6. *Description, Potential Impact, and Number of Small Entities Involved:* Many small entities could be positively affected by this proposal because the proposal will provide for the introduction of new, competitive communications and will foster new technologies resulting in new jobs, economic growth, and improved access to communications by industry, including small entities. The full extent of the impact on small entities cannot be predicted until various issues raised in the proceeding have been resolved. After evaluating the comments filed in response to the Notice, the Commission will examine further the impact of all final rules in this proceeding on small entities and set forth its findings in the final Regulatory Flexibility Analysis.

7. *Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives:* This *Second Notice of Proposed Rule Making* solicits comments on a variety of alternatives, including as to how our licensing mechanism, service rules, and technical rules can be structured to serve a variety of needs.

8. *IRFA Comments:* The Commission requests written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines specified in the summary above.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–5371 Filed 3–9–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC22

Endangered and Threatened Wildlife and Plants; Notice of Six-Month Extension and Reopening of Public Comment Period on the Proposed Rule to List the Barton Springs Salamander as an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension and reopening of comment period on proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that the deadline to determine whether the Barton Springs salamander (Eurycea sosorum) is an endangered species is being extended for up to 6 months. The comment period on the proposal is reopened.

DATES: The new deadline for final action on the proposed listing of the Barton Springs salamander as an endangered species is August 17, 1995. The reopened comment period closes May 17, 1995.

ADDRESSES: Comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Texas State Administrator, U.S. Fish and Wildlife Service, Ecological Services, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (telephone [512] 490–0057, fax [512] 490–0974).

SUPPLEMENTARY INFORMATION:

Background

The proposed rule to list the Barton Springs salamander as an endangered species was published on February 17, 1994 (59 FR 7968). The primary threat to this species is contamination of the waters that supply Barton Springs by potential catastrophic events and chronic degradation resulting from urban activities. Also of concern are disturbances to the salamander's surface habitat (the waters in Barton Springs, Eliza Pool, and Sunken Garden Springs) and reduced groundwater supplies resulting from increased groundwater withdrawal.

The comment period on the proposed rule originally closed April 18, 1994. It was reopened May 26, 1994, and closed July 1, 1994. During the comment periods and subsequent to the close of comment on this proposal, the Service has received recommendations and information relevant to a final decision on the listing of the salamander. In order to adequately incorporate all available pertinent information in the deliberation leading to a decision and to ensure an opportunity for public comment on as complete an administrative record as possible, the deadline for final action on this proposal is being extended and the comment period reopened.

The Service has received several comments regarding the adequacy of search efforts to determine if the currently known distribution is restricted solely to the Barton Springs complex. Comments received from scientific experts refer to extensive search efforts in springs throughout a several-county area. However, a few caves were identified that may support the salamander, but that had not been adequately surveyed.

On September 19, 1994, the Barton Springs/Edwards Aquifer Conservation District submitted a report titled, Barton Springs/Edwards Aquifer Hydrogeology and Water Quality, to the Service. The report appears to contain significant new information regarding water quality throughout the Barton Springs/Edwards Aquifer system. Water quality data contained in this report may provide important information on the effects of existing and historical land use on water quality, and potential threats to the Barton Springs salamander. The Service considers it important that this report be entered into the record and made available for public comment before a final decision is made on the listing.

In October 1994 the Texas Parks and Wildlife Department appointed an Aquatic Biological Advisory Team specifically to consider the conservation and research needs of three species of *Eurycea,* including the Barton Springs salamander. The team will not report its findings and recommendations for several more months; the Service believes that this team's results should be considered in reaching a final listing decision.

In February 1995 the Governor of Texas requested that the Secretary of the

Interior delay final decision on the proposal for 6 months to provide the State an opportunity to take conservation measures for the salamander that would make federal listing unnecessary. The Texas Parks and Wildlife Department (TPWD) also supported an extension, indicated that all reasonable actions in support of conserving the species had not been exhausted, and expressed reservations concerning the documentation of the range of the species and threats to it. TPWD also expressed interest in using the extension to better ascertain the status of biological issues and to pursue State and local conservation options; the Service will welcome any assistance the State of Texas might provide toward these ends. The Act pays special deference to the views of the States in the listing of species, requiring that State identification of a species as in danger of extinction be considered in listing species under the Act (section 4(b)(1)(B)(ii)), that States be notified of proposed listings (section 4(b)(5)(A)(ii)), and that States be provided specific explanations of listing decisions that are counter to State recommendations (section 4(i)). The Service intends to further consider the possible relevance of State conservation efforts to the final listing decision.

The Endangered Species Act allows extension of the normal 1-year deadline for taking final actions on a proposal to list species for up to 6 months when there is a ''substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination.'' The Service believes that the several unresolved issues enumerated above are directly relevant to the sufficiency and accuracy of the available data upon which a listing decision may be made and consequently is extending the deadline for a decision.

In order to allow full public comment on these issues as well as the proposed listing itself, the Service is reopening the comment period until May 17, 1995. Written comments should be submitted to the Service office in the Addresses section above. Comments submitted during previous comment periods will be considered and need not be resubmitted.

Author

The primary author of this notice is Sam D. Hamilton, Texas State Administrator, 10711 Burnet Road, Suite 301, Austin, Texas 78758.

Authority

The Authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: March 6, 1995.

(Notice: Extension of comment period on proposal to list Barton Springs salamander).

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–5880 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 950301062–5062–01; I.D. 021695C]

RIN 0648–AH40

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Revise Product Recovery Rate for Pollock

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to revise the standard product recovery rate for pollock, deep skin fillets, and product code 24. The proposed revision is necessary to respond to new information on the current recovery rate achieved by the groundfish processing industry for this product type. This action is intended to further the objectives of the fishery management plans (FMPs) for the groundfish fisheries off Alaska.

DATES: Comments must be received at the following address by April 10, 1995.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel. Individual copies of the environmental assessment/regulatory impact review prepared for rulemaking establishing standard product recovery rates may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI) are managed by NMFS in accordance with the FMP for Groundfish of the Gulf of Alaska and the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands. The FMPs were prepared by the North Pacific Fishery Management Council under the Magnuson Fishery Conservation and Management Act and are implemented by regulations that appear at 50 CFR parts 672, 675, and 676. General regulations that also govern the groundfish fisheries appear at 50 CFR part 620.

Regulations at §§ 672.20(j) and 675.20(k) establish standard product types and standard product recovery rates (PRR). This rule proposes to revise the pollock deep skin fillet PRR from the current standard of 0.13 to 0.16. It is based on results of 49 recovery tests conducted by NMFS-certified observers during the 1994 fishing year.

This test method calculated the ratio of the product weight of deep skin fillets to the round weight of a basket sample of pollock that had been weighed before processing. The tests used an aggregate of 315 metric tons (mt) of pollock deep skin fillets produced from 1,936 mt of round-weight pollock, yielding an average recovery rate of 0.16, with a range of 0.09 to 0.22. On average, NMFS has determined that a recovery rate of 0.13 is inaccurate and that a recovery rate of 0.16 best represents that achieved by the industry. The proposed revision is within the scope of issues addressed in the final rulemaking for standard product recovery rates set forth at §§ 672.20(j) and 675.20(k) as published in the **Federal Register** (59 FR 50699, October 5, 1994).

NMFS uses standard PRRs for each groundfish product to calculate fee assessments for purposes of funding the North Pacific Fisheries Research Plan (Research Plan), which is a program designed to pay for certified observers who collect information used for fishery conservation and management purposes. NMFS uses the best available information for specifying standard PRRs to calculate round weight equivalents for purposes of determining exvessel values of retained groundfish to assess Research Plan fees.

If the standard PRR of 0.13 were to remain unchanged, the impact on the Research Plan fee assessment program could have the following economic impacts. In 1994, 23,302 mt of pollock deep skin fillets were produced off Alaska. The round-weight equivalents of this amount are 179,246 mt and 145,638 mt, using a PRR of 0.13 and 0.16, respectively, which is a difference of 33,608 mt. Under the Research Plan, processors must pay a fee in an amount not to exceed 2 percent of the exvessel value of the round-weight equivalents of retained fish, including pollock, as defined in the final rule implementing the Research Plan (59 FR 46126,

September 6, 1994). At $0.08 per lb, 33,608 mt (74 million lbs) would have a calculated exvessel value of $5.9 million. Processors would be charged unnecessarily an additional fee assessment of $118,400 if the PRR were to remain at 0.13 compared to 0.16. Other uses by NMFS of standard PRRs are summarized in final rulemaking (59 FR 50699, October 5, 1994).

Based on the above reasons, NMFS has preliminarily determined that a standard PRR of 0.16 best represents the average recovery rate currently achieved by vessels producing pollock deep skin fillets. NMFS proposes this standard PRR for public comment. Should a final rule be promulgated to implement this new standard PRR, §§ 672.20(i)(3) and 675.20(j)(3) also would be revised by changing the standard PRR for pollock deep skin fillets from 0.13 to 0.16 for purposes of calculating retainable amounts of pollock roe.

Classification

The Assistant General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: March 6, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows:

PART 672—GROUNDFISH FISHERY OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.20, paragraph (i)(3) table, entry 24 is revised, and in Table 1 to § 672.20 Product Codes 15 through 32 are amended by revising the entry for pollock to read as follows:

§ 672.20 General limitations.

* * * * *

(i) * * *

(3) * * *

Product code	Product description	Standard product recovery rate
* *	* *	*
24	Deep skin fillets	0.16
* *	* *	*

TABLE 1 TO § 672.20 (CONTINUED).—TARGET SPECIES CATEGORIES, PRODUCT CODES AND DESCRIPTIONS, AND STANDARD PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES REFERENCED IN 50 CFR 672.20(a)(1) AND/OR 675.20(a)(1)

FMP species	Species code	Product Code												
		Pectoral girdle	Heads	Cheeks	Chins	Belly	Fillets: With skin and ribs	Fillets: Skin on no ribs	Fillets: With ribs no skin	Fillets: Skinless/ boneless	Fillets Deep skin	Surimi	Mince	Meal
		15	16	17	18	19	20	21	22	23	24	30	31	32
*	*			*		*			*		*			*
Pollock	270	.....	0.15	.....	.....	.....	0.35	0.30	0.30	0.21	0.16	[1]0.16 [2]0.17	0.22	0.17
*	*			*		*			*		*			*

[1] Standard pollock surimi rate during January through June.
[2] Standard pollock surimi rate during July through September.

* * * * *

PART 675—GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

3. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 675.20, paragraph (j)(3), Table, entry 24 is revised to read as follows:

§ 675.20 General limitations.

(j) * * *

(3) * * *

Product code	Product description	Standard product recovery rate
* *	* *	*
24	Deep skin fillets	0.16
* *	* *	*

* * * * *

[FR Doc. 95–5990 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–22–W

Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 94–121–2]

Availability of Determination of Nonregulated Status for Gentically Engineered Potato Lines

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that certain potato lines genetically engineered for resistance to the Colorado potato beetle by the Monsanto Company are no longer considered regulated articles under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by the Monsanto Company in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the Monsanto Company petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: March 2, 1995.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Koehler, Biotechnologist, Animal and Plant Health Inspection Service, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permits, 4700 River Road Unit 147, Riverdale, MD 20737–1228; (301) 734–7612. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–7612.

SUPPLEMENTARY INFORMATION:

Background

On September 14, 1994, the Animal and Plant Health Inspection Service (APHIS) received a petition from the Monsanto Company (Monsanto) of St. Louis, MO, seeking a determination that seven Russet Burbank potato lines designed at BT6, BT10, BT12, BT16, BT17, BT18, and BT23, that have been genetically engineered for resistance to the Colorado potato (CPB) (hereinafter CPB-resistant potato lines) do not present a plant pest risk and, therefore, are not regulated articles under APHIS' regulations in 7 CFR part 340.

On December 2, 1994, APHIS published a notice in the **Federal Register** (59 FR 61866–61867, Docket No. 94–121–1) announcing receipt of the Monsanto petition and announcing that the petition was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject potato lines and food products derived from them. In the notice, APHIS solicted written comments from the public as to whether the subject potato lines posed a plant pest risk. The comments were to have been received by APHIS on or before January 31, 1995.

APHIS received a total of 61 comments on the Monsanto petition. Comments were received from the following categories of respondents, with the categories containing the larger number of respondents listed first: potato farmers; universities; registered dietitians; regional and national potato growers' association, councils, and boards; cooperative extension service offices; State departments of agriculture; high school educators; individuals; potato marketing services; a potato research company; an agricultural experiment station; the department of agriculture of a foreign government; a food company; an international technology transfer agency; a potato processor; and a member of the U.S. House of Representatives. Fifty-eight of the commenters urged approval of the petition or provided information in support of nonregulated status for the subject potato lines. Three of the 61 commenters did not directly or indirectly support approval of the petition: one of the three did not address the APHIS approval process; another endorsed the concept of the development of a CPB-resistant patato but expressed certain concerns; and one commenter asked that APHIS deny the petition. APHIS has provided a summary and discussion of the comments in the determination document, which is available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Analysis

The Monsanto CPB-resistant potato lines have been genetically engineered to express a gene from the common soil bacterium *Bacillus thuringiensis* subsp. *tenebrionis* (*Btt*) the encodes a highly selective insecticidal delta-endotoxin crystalline protein, CryIIIA. This insect control protein is identical in amino acid sequence to one of the proteins naturally produced by *Btt* and found in commercial microbial *Btt* formulations. According to Monsanto, the protein is highly selective in controlling CPB and is expressed at an effective level in the potato foliage throughout the growing season. The expression of the insect control protein in the subject potato lines is regulated by an enhanced 35S promoter derived from the plant pathogen cauliflower mosaic virus and by the nontranslated region of the small subunit of ribulose-1,5-bisphosphate carboxylase referred to as E9 3′ derived from pea plants. The CPB-resistant patato lines also express a selectable marker gene derived from the prokaryotic transposon Tn*5* encoding the enzyme neomycin phosphotransferase II (*nptII*). The expression of the *nptII* gene in the subject potato lines is regulated by the 35S promoter and the nontranslated 3′ region of the nopaline synthase gene derived from the plant pathogen *Agrobacterium tumefaciens.* The expression of *nptII* in the subject potato lines allows for selective growth of transgenic plant cells on the antibiotic

kanamycin during plant tissue culture. These genes were stably transferred into the genome of potato plants through an *A. tumefaciens*-mediated transformation.

The subject potato lines have been considered ''regulated articles'' under APHIS' regulations in 7 CFR part 340 because their noncoding regulatory sequences were derived from the plant pathogens *A. tumefaciens* and cauliflower mosaic virus. However, evaluation of field data reports from field tests of the subject potato lines conducted since 1991 in the major potato-growing areas of the country indicate that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the subject patato lines' release into the environment.

Determination

Based on its analysis of the data submitted by Monsanto, a review of other scientific data, the comments received from the public, and a review of field tests of the subject potato lines, APHIS has determined that the subject patio lines: (1) Exhibit no plant pathogenic properties; (2) are no more likely to become weeds than CPB-resistant potato lines that could potentially be developed by traditional breading techniques; (3) are unlikely to increase the weediness potential of any other cultivated plant or native wild species with which the organisms can interbreed; (4) will not cause damage to processed agricultural commodities; (5) are unlikely to harm other organisms, such as bees or earthworms, that are beneficial to agriculture; and (6) should pose no greater threat to the ability to control CPB in potatoes and other crops than that posed by the widely-practiced method of applying insecticides to control CPB on potatoes. APHIS has also concluded that there is a reasonable certainty that new varieties developed from the subject potato lines will not exhibit new plant pest properties, i.e., properties substantially different from any observed in the field-tested potato lines, or those observed in standard potatoes in traditional breeding programs.

The effect of this determination is that the seven Russet Burbank potato lines designated as BT6, BT10, BT12, BT16, BT17, BT18, and BT23 and all other lines developed from them are no longer considered regulated articles under APHIS' regulations in 7 CFR part 340. Therefore, the permit and notification requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of the subject potato lines or their progeny. However, the importation of the subject potato lines and any potato nursery stock or seeds capable of propagation is still subject to the restrictions from in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS NEPA Procedures. Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that the subject potato lines and other lines developed from those lines are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 6th day of March 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–5993 Filed 3–9–95; 8:45 am]

BILLING CODE 3410–34–M

Commodity Credit Corporation

Uniform Grain and Rice Storage Agreement Fees

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of fees.

SUMMARY: The purpose of this notice is to publish, in accordance with 7 CFR 1421.5558(b), a schedule of fees to be paid to Commodity Credit Corporation (CCC) by grain and rice warehouse operators requesting to: (a) enter into a storage agreement; or (b) renew an existing storage agreement.

EFFECTIVE DATE: April 1, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Closson, Warehouse and Inventory Division, Consolidated Farm Service Agency, United States Department of Agriculture, Room 5968—South Building. P.O. Box 2415, Washington, DC 20013, (202) 720–4018.

SUPPLEMENTARY INFORMATION:

Executive Order 12372

The Uniform Grain and Rice Storage Agreements are not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The fees set forth in this Notice do not generate any new or revised information collection or recordkeeping requirements on the public.

Regulatory Flexibility Act

It has been determined that this Notice will not significantly impact a substantial number of small entities. Contracting with CCC under the Uniform Storage Agreements is strictly voluntary. CCC is also not required by 5 U.S.C. 553 or any other provision of law to publish a Notice of proposed rulemaking with respect to the subject matter of this Notice. Therefore the Regulatory Flexibility Act is not applicable to this notice, and a Regulatory Flexibility Analysis was not prepared.

Executive Order 12612

It has been determined that the policies contained in this Notice will not have substantial direct effects on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

Background

In accordance with the provisions of CCC's Charter Act (15 U.S.C. 714 *et seq*), CCC enters into storage agreements with private grain and rice warehouse operators to provide for the storage of commodities owned by CCC or pledged as security to CCC for price support loans.

The regulation, 7 CFR 1421.5558 requires that all non-federally licensed grain and rice warehouse operators in States that do not have a cooperative agreement with CCC for warehouse examinations and who do not have an existing agreement with CCC for storage and handling of CCC-owned commodities or commodities pledged to CCC as loan collateral, but who desire such an agreement, must pay an application and inspection fee prior to CCC conducting the original warehouse examination. Such grain or rice warehouse operator who is already a party to a storage agreement with CCC must pay the annual contract fee in

advance of the renewal date of the agreement.

A review of the revenue collected for application and inspection fees and contract fees indicates that the fees collected are insufficient to meet costs incurred by CCC for warehouse examinations and contract origination administrative functions. Accordingly, beginning with the 1995–96 contract year, the fees are changed by increasing by 30 percent those fees applicable to the 1994–95 contract year.

Determination

The fees set forth herein will be collected by the Commodity Credit Corporation (CCC) from non-Federally licensed warehouse operators in States which do not have a Cooperative Agreement with CCC for warehouse examination services and who have entered into a storage agreement with CCC or who are seeking to enter into a storage agreement with CCC.

Application and Inspection Fees

The fee will be computed at the rate of $13 for each 10,000 bushels of storage capacity or fraction thereof, but the fee will be not less than $130 nor more than $1,300.

Contract Fees

The contract fee will be collected by CCC from warehouse operators who have entered into or will enter into a storage agreement with CCC but who do not have a Federal warehouse license or a State warehouse license issued by a State having a Cooperative Agreement with CCC for warehouse examination services.

TWELVE-MONTH CONTRACT FEE SCHEDULE

Location capacity (bushels)	Contract fees (dollars)
1 to 150,000	$130
150,001 to 250,000	260
250,001 to 500,000	390
500,001 to 750,000	520
750,001 to 1,000,000	650
1,000,001 to 1,200,000	780
1,200,001 to 1,500,000	910
1,500,001 to 2,000,000	1,040
2,000,001 to 2,500,000	1,170
2,500,001 to 5,000,000	1,300
5,000,001 to 7,500,000	1,430
7,500,001 to 10,000,000	1,560
10,000,001 +	[1] 1,560

[1] Plus $40 per million bushels above 10,000,000 or fraction thereof.

Signed at Washington, D.C. on March 3, 1995.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–5994 Filed 3–9–95; 8:45 am]

BILLING CODE 3410–05–P

Forest Service

Pilot Creek Environmental Impact Statement, Six Rivers National Forest, Humboldt County, CA; Revised Notice of Intent

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Forest Service published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) in the **Federal Register** (56 FR 3068) on January 15, 1991 for the proposed timber management project in the Pilot and Torrey Compartments of the Mad River Ranger District. The draft EIS was delayed due to a change in project objectives. A revised NOI was published in the **Federal Register** (57 FR 30715) on June 19, 1992. The objectives of the project were modified to implement a strategy that would accelerate the development of late seral habitat characteristics and result in timber production. The draft EIS was expected to be available for public review in June 1993. The draft EIS was delayed due to anticipated changes resulting from President Clinton's Forest Conference held in April of 1993.

As a result of the Forest Conference, The Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl (ROD) was signed on April 13, 1994. Subsequently, as required by the ROD, a Watershed Analysis for the Pilot Creek watershed was developed. Survey protocol requirements were also completed for marbled murrelet within the Pilot Creek project area.

The objectives of the Pilot Creek project have been modified to bring the project in line with ecosystem management concepts and to be consistent with direction contained within the ROD and the Six Rivers National Forest Land and Resource Management Plan (LRMP), scheduled for implementation April 1995.

The revised project objectives are to:

1. Maintain existing late seral conifer stands.

2. Accelerate the development of late seral characteristics within conifer stands.

3. Restore currently degraded conditions which pose risks to riparian and aquatic ecosystems.

4. Maintain or enhance oak woodland habitat.

5. Reduce the risk of catastrophic loss due to wildfire.

6. Contribute to the short-term demand for timber and the socio-economic well-being of local communities.

Substantial scoping has been conducted on this project and includes public meetings, written correspondence, field trips and one-on-one discussions. The driving issues that were used to develop project alternatives focused on water quality and the released roadless area. Five alternatives were developed that will be redesigned to incorporate the expanded objectives and brought into consistency with the ROD and LRMP.

The project area has been expanded to encompass the entire Pilot Creek watershed and now covers 25,442 acres. The project area is within the Hayfork Adaptive Management Area which, as described in the ROD, is designed for the development, testing, and application of forest management practices.

The draft EIS is now expected to be filed with the Environmental Protection Agency (EPA) and available for public review in June 1995. At that time the EPA will publish a notice of availability of the draft EIS in the **Federal Register.** The final EIS is now scheduled to be completed in November 1995.

The comment period on the draft environmental impact statement will be 45 days from the date the EPA's Notice of Availability appears in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a Draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very

important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

FOR FURTHER INFORMATION CONTACT: Marcia Andre, District Ranger, Mad River Ranger District, Star Route Box 300, Bridgeville, California 95526 or telephone Janice Stevenson, Project Planner (707) 574–6233.

Dated: February 22, 1995.

Harold J. Slate,

Acting Forest Supervisor.

[FR Doc. 95–5840 Filed 3–9–95; 8:45 am]

BILLING CODE 3410–11–M

California Spotted Owl EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: This notice announces an open house in which the public is invited to participate in information exchange regarding alternatives being considered in the California Spotted Owl Draft Environmental Impact Statement, as they affect the Sequoia National Forest area.

DATES AND TIME: April 10, from 7 p.m. to 9:00 p.m.

ADDRESS: Kernville Elementary School, 13350 Sierra Way, Kernville, CA 93238.

CONTACT PERSON FOR FURTHER INFORMATION: Judy Schutza, Hot Springs Ranger District, Route 4, Box 548, California Hot Springs, CA 93207. (805) 548–6503.

SUPPLEMENTARY INFORMATION: The Forest Service has released a Draft Environmental Impact Statement (DEIS) to amend the Pacific Southwest Regional Guide and Sierran Province Forest Plans with new management direction for the California Spotted Owl. The purpose of this meeting is to exchange information with the public regarding the Draft Environmental Impact Statement and the preferred alternative.

The meeting will be informally structured. A member of the team that prepared the DEIS will be available to answer questions and discuss the DEIS. Visual media depicting the alternatives and selected environmental consequences will be displayed.

Judy Schutza,

District Ranger.

[FR Doc. 95–5931 Filed 3–9–95; 8:45 am]

BILLING CODE 3410–11–M

Food Safety and Inspection Service

[Docket No. 95–002N]

Exemption for Retail Stores; Adjustment of Dollar Limitations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the dollar limitation currently in effect on the annual sales of poultry products that can be sold by retail stores exempt from Federal inspection requirements to consumers other than household consumers, such as hotels, restaurants and similar institutions, has been adjusted to conform with price change for poultry products as indicated by the Consumer Price Index. The dollar limitation for poultry products increased from $34,500 to $35,700 for calendar year 1995. The dollar limitation for meat products remains at $38,900 for calendar year 1995.

EFFECTIVE DATE: March 10, 1995.

FOR FURTHER INFORMATION CONTACT: Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–7164.

Background

Federal inspection of meat and poultry products prepared for sale or distribution in commerce or in States designated under section 301(c) of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 661(c)) and section 5(c) of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 454(c)) is required by law and administered by the Food Safety and Inspection Service (FSIS). However, section 301(c)(2) of the FMIA (21 U.S.C. 661(c)(2)) and section 5(c)(2) of the PPIA (21 U.S.C. 454(c)(2)) state that the general requirement of routine Federal inspection ''* * * shall not apply to operations of types traditionally and usually conducted at retail stores * * * when conducted at any retail store * * * for sale in normal retail quantities * * * to consumers * * *.''

FSIS regulations (9 CFR 303.1(d) and 381.10(d)) define retail stores that qualify for exemption from routine Federal inspection under the FMIA or PPIA. Under the regulations, whether an establishment is an exempt retail establishment depends, in part, upon the percentage and volume of its trade with consumers other than household consumers, such as hotels, restaurants and similar institutions. Accordingly, the Federal meat and poultry products inspection regulations state in terms of dollars the maximum amount of meat and poultry products which may be sold to nonhousehold consumers if the establishment is to remain an exempt retail establishment. During calendar year 1994, the maximum amount for meat products was $38,900; for poultry products, the amount was $34,500.

The Federal meat and poultry products inspection regulations (9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*)) further provide that the dollar limitation on product sales by retail stores to consumers other than household consumers will be automatically adjusted during the first quarter of each calendar year whenever the Consumer Price Index, published by the Bureau of Labor Statistics (BLS), Department of Labor, indicates a change during the previous year in the price of the same volume of product exceeding $500, upward or downward. The regulations also require that notice of the adjusted dollar limitation be published in the **Federal Register**.

The BLS Consumer Price Index for 1994 indicates an average annual price increase in meat products of 0.6 percent and an average annual price increase in poultry products of 3.4 percent. When rounded off to the nearest $100, the price increase for meat products amounts to $200 and the price increase for poultry products amounts to $1,200. As a percentage of the existing dollar limitation, change in excess of $500 is indicated for poultry products only.

Accordingly, FSIS, in accordance with §§ 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*) of the regulations, has maintained the dollar limitation of permitted sales of meat products at $38,900 and raised the dollar limitation of permitted sales for poultry products from $34,500 to $35,700.

Done at Washington, DC, on February 28, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–5830 Filed 3–9–95; 8:45 am]

BILLING CODE 3410–DM–P

[Docket No. 95–009N]

Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Notice of Scientific/ Technical Conference and Request for Papers

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) will hold a scientific/technical conference, ''New Technology to Improve Food Safety,'' on April 12–13, 1995, at the Holiday Inn O'Hare Airport, Rosemont, Illinois. The purpose of the conference is to discuss ways of developing and subsequently introducing new technologies to improve food safety.

ADDRESSES: Papers should be to sent to: Dr. Pat Basu, Director, Technology Transfer and Coordination Staff, Science and Technology, FSIS, USDA, Room 302 Cotton Annex, 300 12th Street, SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Pat Basu at (202) 720–8623.

SUPPLEMENTARY INFORMATION: On February 3, 1995, FSIS published a proposed rule ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems'' (60 FR 6774). In that document, the Agency proposed a number of regulatory changes applicable to Federal- and State-inspected meat and poultry establishments. The proposed changes were designed to reduce the occurrence and numbers of pathogenic microorganisms in meat and poultry products, thereby reducing the incidence of foodborne illness associated with the consumption of these products.

In the proposed rule, FSIS stated its intent to review its current policies and procedures governing review and approval of in-plant technologies that improve the safety of meat and poultry products, and to convene a public meeting to gain information on ways the Agency might improve its role in fostering and overseeing the implementation of such technologies. FSIS believes that the development and proper use of technology can contribute significantly to improving the safety of the food supply. FSIS recognizes that members of the regulated industry have complained that some of the Agency's control mechanisms stifle innovation, potentially impeding progress that could improve food safety. The Agency also recognizes consumer groups' concern that technologies be proven effective and safe before use, and that the scientific processes used by FSIS to evaluate technologies be open to public scrutiny and participation. To discuss these issues, FSIS is hosting a scientific/ technical conference.

The first conference, ''New Technology to Improve Food Safety'' will be held on April 12–13, 1995, at the Holiday Inn O'Hare Airport, 5440 North River Road, Rosemont, IL 60018, (708) 671–6350. The conference will begin each day at 8:30 a.m. and end at 4:30 p.m. on April 12th; at noon on April 13th.

Conference Agenda

The conference will consist of three sessions as follows:

Session I: ''The Role of Innovation in Enhancing the Safety of Meat and Poultry Products''

Speakers will give examples of new food safety technologies that have been introduced.

Session II: ''Models for Government Facilitation of Technology Development and Transfer''

U.S. Government representatives and a representative from a foreign country will discuss various government models used in the United States and abroad to encourage the development and implementation of new technologies.

Session III: ''New Technologies for Reducing Pathogens, Especially *Escherichia coli O157:H7*''

Speakers will address promising new technologies developed to reduce food pathogens.

Thomas J. Billy, Associate Administrator, FSIS will moderate and be joined by a panel consisting of: Patricia Stolfa, Associate Deputy Administrator for Science and Technology, FSIS; Gene Lyons, Research Leader, Richard Russell Research Center, Agricultural Research Service; a consumer representative; and an industry representative.

At each session, invited speakers from FSIS, other government agencies, industry, and academia groups will give presentations relevant to that session's topic. At Sessions I and III, selected participants that have sent papers to FSIS (see below for details of paper submission) will give a 5 minute presentation. Finally, the panel will have an opportunity to ask the presenters questions.

Submission of Papers

For Sessions I and III, interested persons may submit a paper to FSIS. For Session I, FSIS solicits papers detailing experiences and examples of innovative technologies that have improved food safety. For Session III, FSIS solicits papers presenting information on new technologies for reducing pathogens, especially *Escherichia coli O157:H7.* Papers should present information pertaining to effectiveness and cost of the technology, employee safety, and consumer acceptance of the technology. Session II consists of presentations from representatives from U.S. government agencies and a representative from a foreign country, and papers will not be presented.

Selected persons submitting papers will be invited to give a 5 minute presentation summarizing their paper. If the same subject is covered in more than one paper, FSIS will have the authors combine their presentation for a single 5 minute presentation or select the first paper submitted on the issue and have that author give a presentation.

All papers must be received by March 31, 1995, to be considered for the conference. Please indicate if the paper is for Session I or Session III. Two copies of each paper should be submitted (See **ADDRESSES**), along with hard copies of any slides to be used in the presentation.

Availability of Information

After the conference, the panel will prepare a report of the proceedings addressing the issues presented. This report will include information on how FSIS can assist in the development and introduction of new technologies to improve food safety. Any reports by the panel, transcripts of the conference, and copies of all the papers received will be available in the FSIS Docket Clerk's Office, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Attendance and Hotel Reservations

Please call Ms. Betsy Kogan at (202) 205–0699 if you plan to attend the conference. Additionally, FSIS has reserved a block of rooms at the hotel for $85 per night. Reservations may be made by contacting the hotel at (708) 671–6350.

Done at Washington, DC, on March 6, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–5995 Filed 3–9–95; 8:45 am]

BILLING CODE 3410–DM–P

Grain Inspection, Packers and Stockyards Administration

Pilot Programs Allowing More Than One Official Agency To Provide Official Services Within A Single Geographic Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice With Comment Period.

SUMMARY: Amendments in 1993 changed the United States Grain Standards Act, as amended (Act). One of these changes provides that GIPSA may conduct pilot programs allowing more than one official agency to provide official services within a single geographic area. GIPSA is requesting comments on the two proposed pilot programs described below.

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by May 5, 1995.

ADDRESSES: Comments must be submitted in writing to Neil E. Porter, Director, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36CPDIR]. ATTMAIL and FTS2000MAIL users may respond to !A36CPDIR. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–720–1015, attention: Neil E. Porter. All comments received will be made available for public inspection during regular business hours at the above address located at 1400 Independence Avenue, S.W.

FOR FURTHER INFORMATION CONTACT: Neil E. Porter, telephone 202–720–8262.

SUPPLEMENTARY INFORMATION:

Sections 7(f) and 7A of the Act were amended by the U.S. Grain Standards Act Amendments of 1993 (Public Law 103–156) on November 24, 1993, to authorize GIPSA's Administrator to conduct pilot programs allowing more than one official agency to provide official services within a single geographic area without undermining the declared policy of the Act. The purpose of the pilot programs is to evaluate the impact of allowing more than one official agency to provide official services within a single geographic area.

Comments were requested on five possible pilot programs in the March 14, 1994, **Federal Register** (59 FR 11759). Comments were due by April 22, 1994. Forty-one comments were received on these possible pilot programs: fifteen official agencies and two licensed inspectors opposed pilot programs; six official agencies supported pilot programs, and two official agencies were neutral; five trade associations, ten grain firms, and one laboratory supported pilot programs.

The comments submitted by official agencies expressed their concern over being pressured to grade more leniently or risk losing customers, the possible issuance of multiple original grades on a single lot of grain, losing major customers to competing official agencies, being forced to give preferential treatment to large customers over small customers, maintaining a relatively uniform inspection volume sufficient to preserve their personnel base, and minimizing their management and supervision problems.

Comments from the grain trade noted difficulty in getting services when needed to avoid additional charges and the possibility of better service and/or lower cost if they could choose the official agency to provide such services. They also indicated a desire for pilot programs encompassing all services, a more specific proposal to comment on, and a concern that the structure of a pilot program could determine its success or failure.

After considering these comments and other information, GIPSA has developed and is asking for comments on two proposed pilot programs, one of which was proposed in the March 14, 1994, notice. The remaining four proposed pilot programs; barges on selected rivers or portions of rivers; exceptions; commercial inspections, and submitted samples were determined to be too narrow in scope to conduct an appropriate pilot program. Comments are requested on the following two proposed pilot programs.

1. Timely Service. This pilot program would allow official agencies to provide official services outside their assigned geographic area when these official services can not be provided in a timely manner by the official agency designated to serve that area. A timely manner would be considered to be:

- 6 hours - When a service request is received between 6 a.m., and noon Monday through Friday by the official agency designated to provide service;
- 12 hours - When a service request is received any other time by the official agency designated to provide service.

Customers unable to obtain service within these time limits may request such services from another official agency. Customers using this provision to request official services from an official agency not designated to serve them must maintain sufficient information to establish that they could not receive timely service from the agency designated to serve them. Customers must submit requests for service under this pilot program by FAX. This includes both the initial request for service that could not be provided in a timely manner and any subsequent request for the same service to an official agency not designated to serve them. Official agencies must handle customer requests for service in the order received where practicable. Official agencies and customers using this pilot program must maintain sufficient records to verify eligibility to use this option.

The definition of timeliness in this pilot program supersedes the definition currently stated in section 800.46(b)(5) of the regulations (7 CFR 800.46(b)(5). This section states that official personnel may not be available to provide requested services if the request is not received by 2 p.m., the preceding business day.

2. Open Season. This pilot program would allow official agencies an open season during which they may attempt to sell their services to customers outside their assigned geographic area where no official sample-lot or official weighing services have been provided in the previous 6 months. Official agencies would submit their plans to provide official services to customers outside their assigned geographic area to Compliance Division for review in consultation with the field office supervising the agency. Upon approval, official agencies would be permitted to provide such official services.

Official agencies participating in these pilot programs would be allowed to provide, during the test period, any official services for which they are designated. Official agencies participating in pilot programs must arrange for any equipment (including laboratories and access to D/Ts) that may be needed to provide official services at each site outside the area they are currently designated to serve.

These pilot programs will be for a maximum of 1 year. If, after this time period, GIPSA determines that these programs strengthen the official system, GIPSA will consider extending the time period or recommending other appropriate action.

GIPSA will monitor these pilot programs. If, at any time, GIPSA determines that a pilot program is having a negative impact on the official system, the pilot program will be discontinued.

Commenters are encouraged to submit reasons and pertinent data for support or objection to the pilot programs described above. All comments and suggestions must be submitted to the

Compliance Division at the above address. Comments and other available information will be considered in determining which pilot programs to conduct. FGIS will publish notice of any pilot programs to be conducted.

Any information collection or recordkeeping requirements that may result from a pilot program will be submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: March 3, 1995.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 95–5996 Filed 3–9–95; 8:45 am]

BILLING CODE 3410–EN–F

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: West Coast Salmon Northwest Emergency Assistance Plan.

Agency Form Number: None.

OMB Approval Number: None.

Type of Request: New Collection.

Burden: 11,706 burden hours.

Number of Respondents: 5,445.

Avg Hours Per Response: Varies depending on the requirement but ranges between 1 and 40 hours.

Needs and Uses: A Federal financial assistance program has been established for fishermen in the Northwest who can document losses resulting from the resource disaster in the salmon fishery. Fishermen will be able to apply for two short–term job programs or apply for participation in a fishing permit buy–back program.

Affected Public: Individuals, businesses or other for–profit organizations, not–for–profit institutions, state, local or tribal government.

Frequency: Varies by requirement from one–time to quarterly.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: March 6, 1995.

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organizations.

[FR Doc. 95–5932 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–CW–F

Bureau of Economic Analysis

[Docket 950–3020–64–5064–01]

Final Redefinition of the BEA Economic Areas

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of final changes.

SUMMARY: This is the third and final Federal Register notice relating to the redefinition of the BEA economic areas (EA's). In the first notice (56 FR 13049, March 9, 1993), BEA announced its ''Intent to Revise the Boundaries of the BEA Economic Areas'' and presented the procedures used to define the then-current EA's. In the second notice (59 FR 55416, November 7, 1994), BEA presented for public comment a ''Proposed Redefinition of the BEA Economic Areas,'' which reduced their number from 183 to 174. This third notice presents the 172 EA's of the final redefinition, which reflects changes based on the comments received. In Alaska and western Montana, BEA is combining two EA's into one; and in Washington and Minnesota, BEA is reassigning a county from one EA to another.

EFFECTIVE DATE: April 10, 1995, BEA's regional economic measurement, analysis, and projections programs will use the new set of 172 EA's whenever EA data are presented.

ADDRESSES: Written inquiries may be sent to Kenneth Johnson, U.S. Department of Commerce, Bureau of Economic Analysis BE–61, Regional Economic Analysis Division, Washington, DC 20230; fax (202) 606–5321. Inquiries also may be sent by electronic mail on the Internet to ''kenneth.johnson@bea.doc.gov''.

FOR FURTHER INFORMATION CONTACT: Kenneth Johnson, (202) 606–9219; fax (202) 606–5321.

SUPPLEMENTARY INFORMATION:

Part I: Background

Under authority granted in 15 U.S.C. ¶ 175 et seq., BEA develops and presents geographically detailed economic data and facilitates regional economic analysis. As part of this obligation, in 1977, BEA defined 183 economic area (EA's) covering the entire nation. The 1995 redefinition is necessary to maintain the analytical usefulness of the areas in light of the substantial changes in area commuting patterns shown by the 1990 Census of Population.

Each EA consists of one or more economic nodes—metropolitan areas or similar areas that serve as centers of economic activity—and the surrounding counties that are economically related to the nodes. (Metropolitan areas include metropolitan statistical areas (MSA's), primary metropolitan statistical areas (PMSA's), and New England county metropolitan areas (NECMA's).) Commuting patterns are the main factor used in determining the economic relationship among counties. The EA definition procedure requires that, as far as possible, each area include both the place of work and the place of residence of its labor force.

For some analyses, government agencies and businesses need data that are more geographically detailed than EA data. Government agencies often use relatively small areas for design of their program regulations or implementation of their licensing programs. Businesses need such detail for determining plant locations and for defining sales and marketing territories. BEA is responding to these needs as part of the EA redefinition by first defining a set of 348 ''Component Economic Areas'' (CEA's) and then using these as building blocks for redefining the larger EA's.

Each CEA consists of a single economic node and the surrounding counties that are economically related to the node. Of the nodes, 90 percent are metropolitan, and 10 percent are nonmetropolitan. Each metropolitan area is the node of a different CEA; with minor exceptions, the nonmetropolitan nodes are nonmetropolitan counties where newspapers widely read in these areas are published.

In general, the procedure used to redefine the EA's is similar to that used in 1977. First, nodes are identified. Then, non-nodal counties are assigned to nodes, mainly based on commuting patterns and on newspaper circulation. A procedural difference is that now node identification and the assignment to nodes of non-nodal counties are done in a more systematic way and at a more

geographically detailed level. The procedure first results in the definition of CEA's, which then are aggregated to form EA's.

Part II: Summary of Comments and Responses

In the previous Federal Register notice (59 FR 55416, November 7, 1994), BEA proposed the definition of 348 CEA's and 174 EA's. Persons who wished to comment on the proposal were given until December 22, 1994, to do so. Of 12 comments received, seven suggested no changes, and five suggested changes. In response to the comments, in two instances, BEA is combining two EA's into one and thus is reducing their number from 174 to 172; in two other instances, BEA is reassigning a county from one EA to another. In one comment, a change was proposed in the criteria for identifying CEA's, and in another comment, a delay was proposed in the date when the new EA's become effective; neither of these comments affects the final EA definition.

1. Economic Area Combinations

In the previous notice, BEA proposed two EA's, each a CEA as well, for Alaska—Anchorage and the Panhandle; a mountain range limits economic ties between the areas. In one comment, it was noted that for the two proposed EA's, a consistent set of regional economic data could be provided only for 1980 forward; prior to 1980, the Bureau of the Census used different boundaries for the ''Divisions'' of Alaska for which it assembled data. To overcome the data limitation, the final redefinition combines the two proposed EA's into one statewide EA, named for Anchorage. The proposed CEA's are retained, and they are subject to the data limitation.

In addition, in the previous notice, BEA proposed two EA's, each a CEA as well, for western Montana—Missoula and Butte. In one comment, it was suggested that commuting across these EA boundaries is not minimal; in contrast, in another comment, the proposed EA's were endorsed. In response to the first comment, the final redefinition combines the two proposed EA's into one EA, named for Missoula. In response to the second comment, the proposed CEA's are retained.

2. County Reassignments

In the previous notice, BEA proposed to assign Koochiching County, MN, to the Minneapolis EA and Kittitas County, WA, to the Seattle EA. In comments, it was noted that shopping opportunities attract many Koochiching residents to the Duluth EA and many Kittitas residents to the Richland EA. In addition, Koochiching residents are attracted by Duluth's recreational opportunities. In a further review of commuting data, BEA confirmed that nearly as many Koochiching residents commute to work to the Duluth EA as to the Minneapolis EA; and nearly as many Kittitas residents commute to work to the Richland EA as to the Seattle EA. Accordingly, Koochiching is reassigned to the Duluth EA, and Kittitas is reassigned to the Richland EA.

3. Identification of CEA's Having Nonmetropolitan Nodes

In the previous notice, BEA proposed that each CEA that has a nonmetropolitan node should contain at least five counties that are linked by ties of labor-force commuting, as well as of newspaper circulation. In one comment, it was suggested that newspaper circulation data should play a larger role in the identification of such CEA's. In particular, counties that are locations of newspapers read by specified numbers of persons could be identified as nonmetropolitan nodes, regardless of the number of counties economically tied to the nodes. In BEA's view, economic ties among counties should be given substantial weight in the identification of CEA's.

4. Effective Date for the New Economic Areas

The U.S. Department of Transportation's Bureau of Transportation Statistics (BTS) presents data from its Commodity Flow Survey for regions; the regions, called National Transportation Analysis Regions (NTAR's), are groupings of the EA's previously published. This new set of EA's might entail a new set of NTAR's. In comments on the previous notice, BTS requested that BEA delay the effective date for the new EA's by one or two years in order to provide enough time for BTS and BEA to coordinate their area redefinitions. BEA cannot accommodate this request because it is committed to preparing economic projections for the redefined EA's as part of the set of BEA regional projections to be prepared this year (1995).

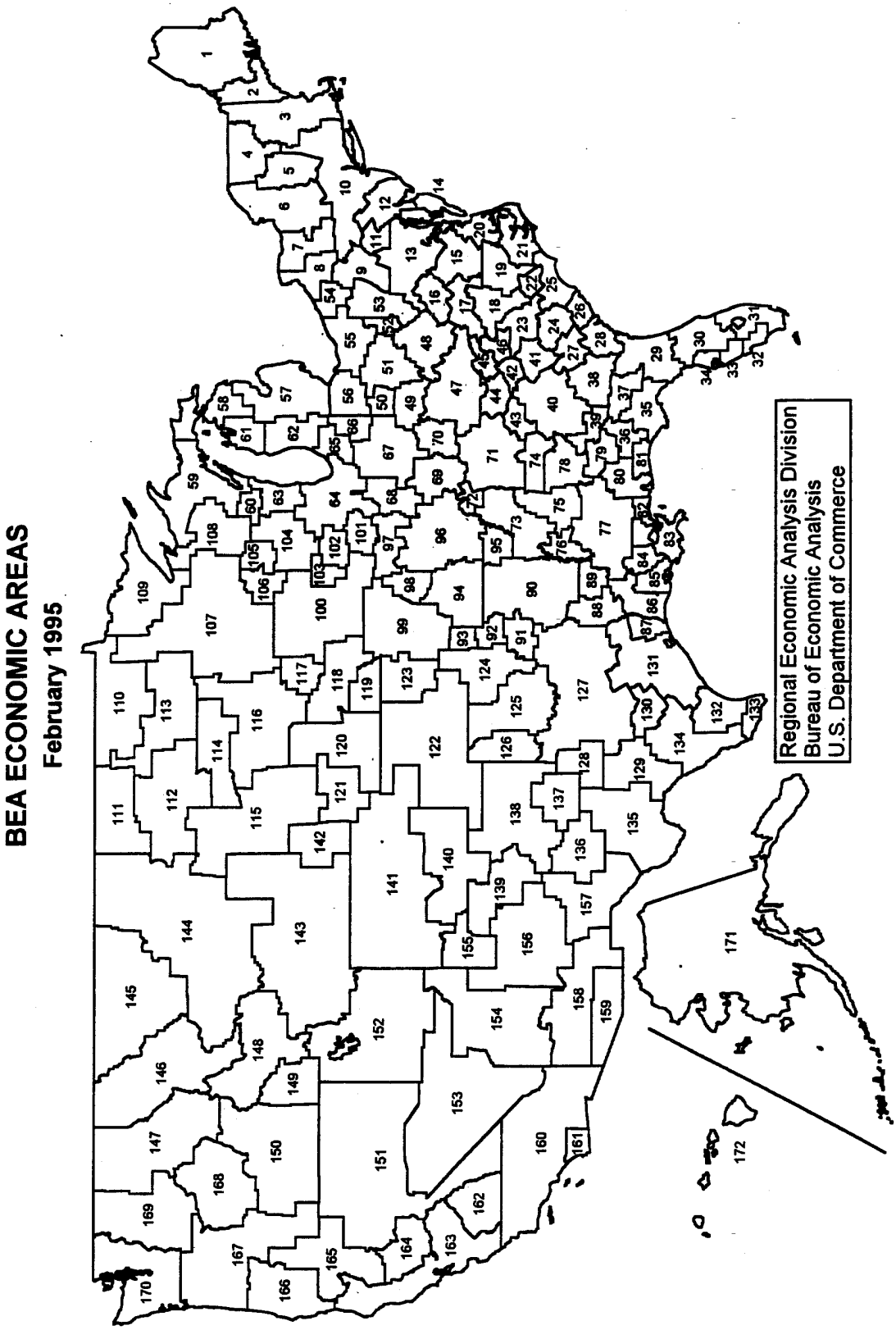
Part III: Map and List of the New 172 BEA Economic Areas

Codes from 001 to 172 are assigned to the new EA's in approximate geographic order, beginning with 001 in northern Maine, continuing south to Florida, then north to the Great Lakes, and continuing in a serpentine pattern to the West Coast. Analysts are cautioned that these codes differ from those in the previous notice. Except for the Western Oklahoma EA (126), the Northern Michigan EA (058), and the 17 EA's that mainly correspond to consolidated metropolitan statistical areas (CMSA's), each EA is named for the metropolitan area or city that is the node of its largest CEA and that is usually, but not always, the largest metropolitan area or city in the EA. The following list provides EA codes and names. EA boundaries and codes are shown on the map following the list.

EA code	Name
001	Bangor, ME.
002	Portland, ME.
003	Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH.
004	Burlington, VT.
005	Albany-Schenectady-Troy, NY.
006	Syracuse, NY.
007	Rochester, NY.
008	Buffalo-Niagara Falls, NY.
009	State College, PA.
010	New York-No. New Jersey-Long Island, NY–NJ–CT–PA (CMSA–70)
011	Harrisburg-Lebanon-Carlisle, PA.
012	Philadelphia-Wilmington-Atlantic City, PA–NJ–DE–MD (CMSA–77)
013	Washington-Baltimore, DC–MD–VA–WV (CMSA–97)
014	Salisbury, MD.
015	Richmond-Petersburg, VA.
016	Staunton, VA.
017	Roanoke, VA.
018	Greensboro-Winston-Salem-High Point, NC.
019	Raleigh-Durham-Chapel Hill, NC.
020	Norfolk-Virginia Beach-Newport News, VA–NC.
021	Greenville, NC.
022	Fayetteville, NC.
023	Charlotte-Gastonia-Rock Hill, NC–SC.
024	Columbia, SC.
025	Wilmington, NC.
026	Charleston-North Charleston, SC.
027	Augusta-Aiken, GA–SC.
028	Savannah, GA.
029	Jacksonville, FL.
030	Orlando, FL.
031	Miami-Fort Lauderdale, FL (CMSA–56).
032	Fort Myers-Cape Coral, FL.
033	Sarasota-Bradenton, FL.
034	Tampa-St. Petersburg-Clearwater, FL.
035	Tallahassee, FL.
036	Dothan, AL.
037	Albany, GA.
038	Macon, GA.
039	Columbus, GA–AL.
040	Atlanta, GA.
041	Greenville-Spartanburg-Anderson, SC.
042	Asheville, NC.
043	Chattanooga, TN–GA.
044	Knoxville, TN.

EA code	Name
045	Johnson City-Kingsport-Bristol, TN–VA.
046	Hickory-Morganton, NC.
047	Lexington, KY.
048	Charleston, WV.
049	Cincinnati-Hamilton, OH–KY–IN (CMSA–21).
050	Dayton-Springfield, OH.
051	Columbus, OH.
052	Wheeling, WV–OH.
053	Pittsburgh, PA.
054	Erie, PA.
055	Cleveland-Akron, OH (CMSA–28).
056	Toledo, OH.
057	Detroit-Ann Arbor-Flint, MI (CMSA–35).
058	Northern Michigan, MI.
059	Green Bay, WI.
060	Appleton-Oshkosh-Neenah, WI.
061	Traverse City, MI.
062	Grand Rapids-Muskegon-Holland, MI.
063	Milwaukee-Racine, WI (CMSA–63).
064	Chicago-Gary-Kenosha, IL–IN–WI (CMSA–14).
065	Elkhart-Goshen, IN.
066	Fort Wayne, IN.
067	Indianapolis, IN.
068	Champaign-Urbana, IL.
069	Evansville-Henderson, IN–KY.
070	Louisville, KY–IN.
071	Nashville, TN.
072	Paducah, KY.
073	Memphis, TN–AR–MS.
074	Huntsville, AL.
075	Tupelo, MS.
076	Greenville, MS.
077	Jackson, MS.
078	Birmingham, AL.
079	Montgomery, AL.
080	Mobile, AL.
081	Pensacola, FL.
082	Biloxi-Gulfport-Pascagoula, MS.
083	New Orleans, LA.
084	Baton Rouge, LA.
085	Lafayette, LA.
086	Lake Charles, LA.
087	Beaumont-Port Arthur, TX.
088	Shreveport-Bossier City, LA.
089	Monroe, LA.
090	Little Rock-North Little Rock, AR.
091	Fort Smith, AR–OK.
092	Fayetteville-Springdale-Rogers, AR.
093	Joplin, MO.
094	Springfield, MO.
095	Jonesboro, AR.
096	St. Louis, MO–IL.
097	Springfield, IL.
098	Columbia, MO.
099	Kansas City, MO–KS.
100	Des Moines, IA.
101	Peoria-Pekin, IL.
102	Davenport-Moline-Rock Island, IA–IL.
103	Cedar Rapids, IA.
104	Madison, WI.
105	La Crosse, WI–MN.
106	Rochester, MN.
107	Minneapolis-St. Paul, MN–WI.
108	Wausau, WI.
109	Duluth-Superior, MN–WI.
110	Grand Forks, ND–MN.
111	Minot, ND.
112	Bismarck, ND.
113	Fargo-Moorhead, ND–MN.
114	Aberdeen, SD.
115	Rapid City, SD.
116	Sioux Falls, SD.
117	Sioux City, IA–NE.
118	Omaha, NE–IA.
119	Lincoln, NE.
120	Grand Island, NE.
121	North Platte, NE.
122	Wichita, KS.
123	Topeka, KS.
124	Tulsa, OK.
125	Oklahoma City, OK.
126	Western Oklahoma, OK.
127	Dallas-Fort Worth, TX (CMSA–31).
128	Abilene, TX.
129	San Angelo, TX.
130	Austin-San Marcos, TX.
131	Houston-Galveston-Brazoria, TX (CMSA–42).
132	Corpus Christi, TX.
133	McAllen-Edinburg-Mission, TX.
134	San Antonio, TX.
135	Odessa-Midland, TX.
136	Hobbs, NM.
137	Lubbock, TX.
138	Amarillo, TX.
139	Santa Fe, NM.
140	Pueblo, CO.
141	Denver-Boulder-Greeley, CO (CMSA–34).
142	Scottsbluff, NE.
143	Caster, WY.
144	Billings, MT.
145	Great Falls, MT.
146	Missoula, MT.
147	Spokane, WA.
148	Idaho Falls, ID.
149	Twin Falls, ID.
150	Boise City, ID.
151	Reno, NV.
152	Salt Lake City-Ogden, UT.
153	Las Vegas, NV–AZ.
154	Flagstaff, AZ.
155	Farmington, NM.
156	Albuquerque, NM.
157	El Paso, TX.
158	Phoenix-Mesa, AZ.
159	Tucson, AZ.
160	Los Angeles-Riverside-Orange County, CA (CMSA–49)
161	San Diego, CA.
162	Fresno, CA.
163	San Francisco-Oakland-San Jose, CA (CMSA–84).
164	Sacramento-Yolo, CA (CMSA–82)
165	Redding, CA.
166	Eugene-Springfield, OR.
167	Portland-Salem, OR–WA (CMSA–79).
168	Pendleton, OR.
169	Richland-Kennewick-Pasco, WA.
170	Seattle-Tacoma-Bremerton, WA (CMSA–91)
171	Anchorage, AK.
172	Honolulu, HI.

BILLING CODE 3510–06–M



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Part IV: Availability of Additional Information

The codes, names, and numerical counts of the counties contained in each EA and CEA and of the CEA's contained in each EA are available through two electronic services from the Commerce Department's STAT–USA: For the Economic Bulletin Board (EBB), use a personal computer and modem, dial (202) 482–3870, and follow the instructions. For Internet, access the EBB using Telnet address ''ebb.stat-usa.gov'' for remote login, and download the file named ''eacodes.exe.'' For prices and other information about these services, call (202) 482–1986.

The codes, names, and numerical counts are also available on a 3½-inch, high-density diskette for $20. When ordering, please specify the BEA Accession Number 61–95–40–101. Send your order, along with a check or money order payable to ''Bureau of Economic Analysis,'' to Public Information Office, Order Desk BE–53, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230. For further information or to order using MasterCard or VISA, call (202) 606–3700.

Carol S. Carson,

Director.

[FR Doc. 95–6008 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–06–M

Bureau of Export Administration

Materials Technical Advisory Committee; Open Meeting

A meeting of the Materials Technical Advisory Committee will be held April 6, 1995, 10:30 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th & Pennsylvania Avenue NW., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to advanced materials and related technology.

Agenda

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Presentation by the Office of Strategic Industries and Economic Security on the services it provides to companies engaged in the export of controlled commodities.
4. Presentation by the Office of Chemical and Biological Controls and Treaty Compliance and agreements affecting export of Category 1 commodities.
5. Discussion on ECCN 1C60C: Precursor and intermediate chemicals used in the production of chemical warfare agents. Specifically, on whether or not control on Item 25, hydrogen fluoride, includes hydrofluoric acid.

The meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address:

Ms. Lee Ann Carpenter
TAC Unit/OAS/EA—Room 3886C
Bureau of Export Administration
U.S. Department of Commerce
Washington, DC 20230

For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: March 7, 1995.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 95–6009 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Order No. 731]

Grant of Authority for Subzone Status; Amoco Oil Company (Oil Refinery) Texas City, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Texas City Foreign Trade Zone Corporation (formerly Foreign Trade Zone of Texas City-Gulf Coast, Inc.), grantee of Foreign-Trade Zone 199, for authority to establish special-purpose subzone status at the oil refinery complex of Amoco Oil Company, in Texas City, Texas, was filed by the Board on March 10, 1993, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 8–93, 58 FR 16396, 3–26–93); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 199A) at the Amoco Oil Company refinery complex, in Texas City, Texas, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on refinery inputs covered under HTSUS Subheadings # 2709.00.1000–# 2710.00.1050 and # 2710.00.2500 which are used in the production of:

—petrochemical feedstocks and refinery by-products (examiners report, Appendix D);

—products for export; and,

—products eligible for entry under HTSUS # 9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 3rd day of March 1995.

Paul L. Joffe,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 95–6010 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–357–810]

Amended Preliminary Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 10, 1995.

FOR FURTHER INFORMATION CONTACT: John Beck or Jennifer Stagner, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC. 20230; telephone (202) 482–3464 or (202) 482–1673, respectively.

Scope of Investigation

For purposes of this investigation, OCTG are hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This investigation does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The OCTG subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.20.10.00, 7304.20.10.10, 7304.20.10.20, 7304.20.10.30, 7304.20.10.40, 7304.20.10.50, 7304.20.10.60, 7304.20.10.80, 7304.20.20.00, 7304.20.20.10, 7304.20.20.20, 7304.20.20.30, 7304.20.20.40, 7304.20.20.50, 7304.20.20.60, 7304.20.20.80, 7304.20.30.00, 7304.20.30.10, 7304.20.30.20, 7304.20.30.30, 7304.20.30.40, 7304.20.30.50, 7304.20.30.60, 7304.20.30.80, 7304.20.40.00, 7304.20.40.10, 7304.20.40.20, 7304.20.40.30, 7304.20.40.40, 7304.20.40.50, 7304.20.40.60, 7304.20.40.80, 7304.20.50.10, 7304.20.50.15, 7304.20.50.30, 7304.20.50.45, 7304.20.50.50, 7304.20.50.60, 7304.20.50.75, 7304.20.60.10, 7304.20.60.15, 7304.20.60.30, 7304.20.60.45, 7304.20.60.50, 7304.20.60.60, 7304.20.60.75, 7304.20.70.00, 7304.20.80.00, 7304.20.80.30, 7304.20.80.45, 7304.20.80.60, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

References to the Antidumping and Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments (57 FR 1131, January 10, 1992) (concerning correction of ministerial errors in a preliminary determination), which were withdrawn on January 3, 1995 (60 FR 80), are provided solely for further explanation of the Department's practice and procedures with respect to correction of ministerial errors. The subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act.

Amendment of Preliminary Determination

In accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b(b)), on February 2, 1995, the Department of Commerce (the Department) published its preliminary determination that OCTG from Argentina were being sold at less than fair value (60 FR 6503, February 2, 1995).

On February 3, 1995, Siderca S.A.I.C. (Siderca), the respondent in the investigation, timely alleged that the Department had made a ministerial error in its preliminary determination and requested that the Department correct this error. This alleged error involved different U.S. further manufacturing costs associated with the same control number. Siderca stated that the reported control numbers were based on the merchandise as imported into the United States. Certain products that were identical as imported and therefore had identical control numbers were further manufactured into different products with different corresponding costs.

Siderca argued that the Department incorrectly averaged different U.S. manufactured costs by imported product (i.e. control number) instead of matching the individual sales transactions with the submitted costs applicable to that transaction. Siderca stated that correcting for the error would change the preliminary antidumping margin to 0.42%, a *de minimis* amount, and therefore the preliminary determination would be negative.

Pursuant to 19 CFR 353.28(c)(1994), the Department may correct ''ministerial errors'' in its calculations. A ''ministerial error'' is defined in 19 CFR 353.28(d)(1994) as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial.'' We agreed with Siderca that matching sales to further manufacturing costs based on control number was a ministerial error (see the February 27, 1995, memorandum from the team to Barbara R. Stafford).

Furthermore, in accordance with the proposed regulations concerning the correction of ministerial errors, 19 CFR 353.15(g)(4)(ii) (57 FR 1131, 1133, January 10, 1992), the Department will correct ministerial errors in a preliminary determination if the errors constitute ''significant ministerial errors.'' Under the proposed rules, a ministerial error would be ''significant'' if the correction of the error:

(A) Would result in a change of at least 5 absolute percentage points in, but not less than 25 percent of, the dumping margin calculated in the original (erroneous) preliminary determination; or

(B) Would result in a difference between a dumping margin of zero (or *de minimis*) and a margin of greater than *de minimis.*

After correcting for the ministerial error, the margin for Siderca changed to 0.42%, a *de minimis* amount. Therefore, this error is ''significant'' as defined in the Department's proposed regulations. Thus, the Department is hereby amending its preliminary determination to correct for this ministerial error.

Discontinuation of Suspension of Liquidation

Since the amended margin for Siderca is now *de minimis,* we are directing the Customs Service to discontinue suspending liquidation of all entries of OCTG from Argentina, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after February 2, 1995, the date of publication of the original preliminary determination in the **Federal Register**. Furthermore, we are directing the Customs Service to refund all cash deposits or postings of a bond which

have been collected on the subject merchandise from Argentina.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our amended preliminary determination.

In accordance with section 735(b)(3), if our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry within 75 days after the date of that affirmative final determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies may be submitted by any interested party to the Assistant Secretary for Import Administration no later than May 2, 1995, and rebuttal briefs no later than May 9, 1995. We request that parties in this case provide an executive summary of no more than two pages in conjunction with case briefs on the major issues to be addressed. Further, briefs should contain a table of authorities. Citations to Commerce determinations and court decisions should include the page number where cited information appears. In preparing the briefs, please begin each issue on a separate page. In accordance with 19 CFR 353.38(b), we will hold a public hearing to give interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on May 19, 1995, at 10:00 a.m. at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm the time, date, and place of the hearing 48 hours before the scheduled time.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.15(a)(4).

Dated: March 6, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–6011 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–DS–P

(A–570–839)

Notice of Postponement of Preliminary Antidumping Duty Determination: Certain Partial-Extension Steel Drawer Slides With Rollers From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 10, 1995.

FOR FURTHER INFORMATION CONTACT: John Brinkmann (202–482–5288) or Michelle Frederick (202–482–0186), Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

POSTPONEMENT OF PRELIMINARY DETERMINATION: On November 21, 1994, the Department of Commerce (''the Department'') initiated an antidumping duty investigation of certain partial-extension steel drawer slides with rollers (''drawer slides'') from the People's Republic of China (PRC) (59 FR 60773, November 28, 1994). The notice of initiation stated that if this investigation proceeds normally, the Department would issue its preliminary determination on or before April 9, 1995.

On December 15, 1994, the U.S. International Trade Commission determined that there is a reasonable indication that a U.S. domestic industry is threatened with material injury by reason of imports of drawer slides from the PRC (59 FR 65787, December 21, 1994).

This investigation is rendered extraordinarily complicated by the novel issue of government ownership of exporters of subject merchandise. Furthermore, information available to the Department indicates that there are many producers/exporters of the subject merchandise. The process of identifying all exporters who sold subject merchandise to the United States during the POI caused significant delays in issuing our questionnaire. In addition, we determine at this time that respondent parties in this investigation appear to be cooperating.

For these reasons, pursuant to sections 733(c)(1)(B)(i) (II) and (III) of the Tariff Act of 1930, as amended (the Act), we determine that this investigation is extraordinarily complicated and that additional time is necessary to make the preliminary determination in accordance with 733(c)(1)(B)(ii) of the Act. Therefore, we are postponing our preliminary determination in this investigation until no later than May 30, 1995.

This notice is published pursuant to section 733(c)(2) of the Act of 1930, as amended, and 19 CFR 353.15(d).

Dated: March 3, 1995.

Barbara R. Stafford,

Deputy Assistant Secretary for Investigations, Import Administration.

[FR Doc. 95–6012 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award's Board of Overseers

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a meeting of the Board of Overseers of the Malcolm Baldrige National Quality Award on Wednesday, April 5, 1995, from 8:30 a.m. to 5:00 p.m. The Board of Overseers consists of nine members prominent in the field of quality management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of the meeting on April 5, 1995, will be for the Board of Overseers to receive and then discuss reports from the National Institute of Standards and Technology (NIST) and the Judges Panel of the Malcolm Baldrige National Quality Award. These reports and discussions will cover the following topics: overview of the Award process; status of the 1994/1995 Award cycles and application trends; update on pilot programs; status of legislation; the responsibility of Judges and Overseers; and technology transfer discussions regarding the Conference Board regional series, the Quest for Excellence Conference and State and local networks.

DATES: The meeting will convene April 5, 1995, at 8:30 a.m., and adjourn at 5 p.m. on April 5, 1995.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building Conference Room (seating capacity 36, includes 24 participants), Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2036.

Dated: March 6, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–5954 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–13–M

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a closed meeting of the Judges Panel of the Malcolm Baldrige National Quality Award on Tuesday, April 4, 1995, from 8:30 a.m. to 5 p.m., and a public meeting on Wednesday, April 5, 1995, from 8:30 a.m. to 5 p.m. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The meeting will be composed of two parts. On April 4, 1995, the Judges Panel will meet to hold final review of the 1994 Award cycle; establish the 1995 Award cycle, including examiner selection and training; review of evaluations of applicants not selected for an award; review improvements on the feedback and judging processes, and discuss future plans for the Award program. Review and discussion of applications contain trade secrets and proprietary commercial information submitted to the Government in confidence. This meeting will include a working lunch. On April 5, 1995, there will be a combined meeting of the members of the Judges Panel and the Board of Overseers. The purpose of this meeting will be for the Board of Overseers to receive and then discuss reports from the Judges Panel and the National Institute of Standards and Technology (NIST). These reports and discussions will cover the following topics: overview of the Award process; status of the 1994/1995 Award cycles and application trends; update on pilot programs; status of legislation; the responsibility of Judges and Overseers; and technology transfer discussions. The meeting on April 4, 1995, scheduled to begin at 8:30 a.m. and end at 5 p.m., will be closed.

DATES: The meeting will convene April 4, 1995, at 8:30 a.m. and adjourn at 5:00 p.m. on April 5, 1995.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building Conference Room (seating capacity 36, includes 24 participants), Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2036.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 3, 1994, that the meeting of the Panel of Judges will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: March 6, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–5955 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 022195F]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for a scientific research permit (P492A and P492B).

SUMMARY: Notice is hereby given that Dr. Graham A.J. Worthy, Marine Mammal Research Program, Texas A&M University, 4700 Avenue U, Galveston, TX 77551–5923 (co-investigators: Alan Abend and Lisl K.M. Shoda), has applied in due form for a permit to obtain skin, blubber, blood, and muscle samples, and to import/export samples from various species of cetaceans and pinnipeds for purposes of scientific research.

DATES: Written comments must be received on or before April 10, 1995.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Southeast Region, NMFS, 9720 Executive Center Drive, N., St. Petersburg, FL 33702–2532 (813/570–5312); and

Southwest Region, NMFS, 501 W. Ocean Boulevard, Long Beach, CA 90802–4213 (310/980–4001).

Written data or views, or requests for a public hearing on this request, should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

Dr. Worthy and Mr. Abend (P492A) request a permit to biopsy two captive beluga whales (*Delphinapterus leucas*) at the Aquarium of Wildlife Conservation, and obtain, import, and export skin, blubber, and blood samples from various other species of pinnipeds and cetaceans. Samples to be imported from/exported to Canada, Norway, and the Netherlands will be obtained from other permitted researchers and stranded animals. The objectives are to determine the actual tissue turnover rates of marine mammals using stable isotope tracers, determine which tissues are suitable for fatty acid tracing of marine mammal diets, and apply the turnover rates to free-ranging marine mammals to identify prey and movement.

Dr. Worthy and Ms. Shoda (P492B) request a permit to biopsy 30 rehabilitating beached/stranded northern elephant seals (*Mirounga angustirostris*) at Sea World and/or The Marine Mammal Center. The objectives of the study are to determine the pattern of toxin redistribution as northern

elephant seals improve from a thin blubber layer emaciated state to a thick blubber layer fattened state, determine whether there are detectable changes in cellular immune function as animals gain body condition, and characterize the relationship between cellular immune responsiveness and OC levels.

Dated: March 3, 1995.

P.A. Montanio,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–5925 Filed 3–9–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 10, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On August 19, December 23, 1994 and January 13, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (59 FR 42821, 66300 and 60 FR 3196) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities, Mineral Oil, Lanolated, 6505–01–009–2897, 6505–00–890–2027

Services, Janitorial/Custodial, Des Moines International Airport, Air National Guard Base, Des Moines, Iowa

Janitorial/Custodial, NISE East Building. 4600 Marriot Drive, North Charleston, South Carolina

Operation of Recycling Center, Minot Air Force Base, North Dakota

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–5952 Filed 3–9–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List military resale commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a commodity previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 10, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the military resale commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the military resale commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the military resale commodities and services.

3. The action will result in authorizing small entities to furnish the military resale commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the military resale commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following military resale commodities and services have been proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Military Resale Commodities

Mitt, Barbecue
M.R. 891
NPA: The Lighthouse for the Blind in New Orleans
New Orleans, Louisiana

Chester County Branch of the Pennsylvania Association for the Blind, Inc., Coatesville, Pennsylvania

Mop, Sponge, Block

M.R. 990
NPA: Royal Maid Association for the Blind, Inc., Hazlehurst, Mississippi
Services
Conversion of Magazines to Braille
Library of Congress
National Library Service for the Blind and Physically Handicapped, Washington, DC
(for the following magazines: Better Homes & Garden, Boys Life, Consumer Research, Cooking Light, Fortune, Inside Sports, Isaac Asimov's Science Fiction, Ladies Home Journal, Musical Mainstream, National Geographic, New York Times, PC Computing, Playboy, Popular Communications, Popular Mechanic, and Science News)
NPA: The Clovernook Center, Opportunities f/t Blind, Cincinnati, Ohio
Janitorial/Custodial
U.S. Coast Guard Air Station
Clearwater, Florida
NPA: The Pinellas Association for Retarded Children, St. Petersburg, Florida
Mailroom Operation
U.S. Army Corps of Engineers
Cold Regions Research & Engineering Laboratory
Hanover, New Hampshire
NPA: West Central Services, Lebanon, New Hampshire

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the commodity.

3. The action will result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for deletion from the Procurement List.

Item proposed to be deleted to the Procurement List:

Cocoa Beverage Powder
8960–01–323–9627

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–5953 Filed 3–9–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Department of the Army

Collegiate Education Advisory Committee; Meeting

AGENCY: U.S. Army Cadet Command, DOD.

ACTION: Notice of meeting.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Collegiate Education Advisory Committee.

Date of Meeting: 11–12 April 1995.

Place of Meeting: Virginia Military Institute (VMI), Lexington, Virginia.

Time of Meeting: 0830–1700—11 April 1995; 0830–1000—12 April 1995.

Proposed Agenda: Review and discussion of the status of Army ROTC since the July '94 meeting at Fort Bragg, North Carolina.

1. Purpose of meeting: The Committee will review the significant changes in ROTC scholarships, missioning, advertising strategy, marketing, camps and on-campus training, the Junior High School Program and ROTC Nursing.

2. Meeting of the Advisory Committee is open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intent to attend the 11–12 April 1995 meeting.

3. Any member of the public may file a written statement with the Committee before, during or after the meeting. Based on the extent that time permits, the Committee Chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory Committee should be addressed to Mr. Roger Spadafora, U.S. Army Cadet Command, Attn: ATCC–TE, Fort Monroe, Virginia 23669–5000. Telephone: (804) 727–4595.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–5841 Filed 3–9–95; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Defense Science Board Task Force on Depot Maintenance Operations and Management

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Depot Maintenance Operations and Management will meet in closed session on March 14, 1995 at the Pentagon, Arlington, Virginia. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will provide advice, recommendations and suggested implementations of improvements to the Department's depot maintenance operations.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: March 6, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register, Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–5832 Filed 3–9–95; 8:45 am]

BILLING CODE 5000–04–M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transporation Allowance Committee, DOD.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 182. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. Bulletin Number 182 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: March 1, 1995.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

BILLING CODE 5000–04–M

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:						
ADAK 5/	$ 10		$ 34		$ 44	10-01-91
ANAKTUVUK PASS	83		57		140	12-01-90
ANCHORAGE						
05-15--09-30	147		64		211	05-15-95
10-01--05-14	81		57		138	03-01-95
ANIAK	73		36		109	07-01-91
ATQASUK	129		86		215	12-01-90
BARROW	105		83		188	11-01-93
BETHEL	76		67		143	02-01-94
BETTLES	65		45		110	12-01-90
COLD BAY	110		54		164	07-01-93
COLDFOOT	95		59		154	10-01-92
CORDOVA						
05-01--09-30	79		76		155	05-01-95
10-01--04-30	67		73		140	03-01-95
CRAIG	67		35		102	07-01-91
DENALI NATIONAL PARK	113		68		181	05-01-94
DILLINGHAM	85		64		149	11-01-93
DUTCH HARBOR-UNALASKA	113		67		180	05-01-92
EIELSON AFB						
05-15--09-15	106		59		165	05-15-94
09-16--05-14	68		55		123	01-01-94
ELMENDORF AFB						
05-15--09-30	147		64		211	05-15-95
10-01--05-14	81		57		138	03-01-95
EMMONAK	62		61		123	10-01-93
FAIRBANKS						
05-15--09-15	106		59		165	05-15-94
09-16--05-14	68		55		123	01-01-94
FALSE PASS	80		37		117	06-01-91
FT. RICHARDSON						
05-15--09-30	147		64		211	05-15-95
10-01--05-14	81		57		138	03-01-95
FT. WAINWRIGHT						
05-15--09-15	106		59		165	05-15-94
09-16--05-14	68		55		123	01-01-94
HOMER						
05-01--09-30	71		60		131	05-01-94
10-01--04-30	60		58		118	02-01-94

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA: (CONT'D)						
JUNEAU						
04-30--09-14	$ 88		$ 72		$160	04-30-95
09-15--04-29	77		71		148	03-01-95
KATMAI NATIONAL PARK	89		59		148	12-01-90
KENAI-SOLDOTNA						
04-02--09-30	104		74		178	04-02-94
10-01--04-01	67		71		138	01-01-94
KETCHIKAN						
05-01--09-30	90		69		159	05-01-95
10-01--04-30	73		68		141	03-01-95
KING SALMON 3/	75		59		134	12-01-90
KLAWOCK	75		36		111	07-01-91
KODIAK	79		65		144	03-01-95
KOTZEBUE	133		87		220	05-01-93
KUPARUK OILFIELD	75		52		127	12-01-90
METLAKATLA						
06-01--10-01	95		58		153	06-01-94
10-02--05-31	72		56		128	02-01-94
MURPHY DOME						
05-15--09-15	106		59		165	05-15-94
09-16--05-14	68		55		123	01-01-94
NELSON LAGOON	102		39		141	06-01-91
NOATAK	133		87		220	05-01-93
NOME	71		67		138	10-01-93
NOORVIK	133		87		220	05-01-93
PETERSBURG	77		54		131	03-01-95
POINT HOPE	99		61		160	12-01-90
POINT LAY 6/	106		73		179	12-01-90
PRUDHOE BAY-DEADHORSE	73		60		133	11-01-93
SAND POINT	64		67		131	08-01-94
SEWARD						
05-01--09-30	100		55		155	05-01-95
10-01--04-30	83		53		136	03-01-95
SHUNGNAK	133		87		220	05-01-93
SITKA-MT. EDGECOMBE						
05-15--09-30	93		64		157	05-15-95
10-01--05-14	83		63		146	03-01-95
SKAGWAY						
05-01--09-30	90		69		159	05-01-95
10-01--04-30	73		68		141	03-01-95

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA: (CONT'D)						
SPRUCE CAPE	$ 79		$ 65		$144	03-01-95
ST. GEORGE	100		39		139	06-01-91
ST. MARY'S	77		59		136	06-01-93
ST. PAUL ISLAND	62		63		125	10-01-93
TANANA	71		67		138	10-01-93
TOK						
05-02--09-30	64		56		120	05-02-95
10-01--05-01	50		52		102	03-01-95
UMIAT	97		63		160	12-01-90
VALDEZ						
05-01--09-14	95		70		165	05-01-95
09-15--04-30	79		69		148	03-01-95
WAINWRIGHT	90		75		165	12-01-90
WALKER LAKE	82		54		136	12-01-90
WRANGELL						
05-01--09-30	90		69		159	05-01-95
10-01--04-30	73		68		141	03-01-95
YAKUTAT	77		58		135	11-01-93
OTHER 3, 4, 6/	63		48		111	01-01-93
AMERICAN SAMOA	73		48		121	11-01-94
GUAM	155		75		230	05-01-93
HAWAII:						
ISLAND OF HAWAII: HILO	73		61		134	06-01-93
ISLAND OF HAWAII: OTHER	111		69		180	01-01-95
ISLAND OF KAUAI	105		70		175	01-01-95
ISLAND OF KURE 1/			13		13	12-01-90
ISLAND OF MAUI	99		76		175	01-01-95
ISLAND OF OAHU	100		67		167	01-01-95
OTHER	79		62		141	06-01-93
JOHNSTON ATOLL 2/	22		22		44	08-01-94
MIDWAY ISLANDS 1/			13		13	12-01-90
NORTHERN MARIANA ISLANDS:						
ROTA	48		77		125	05-01-94
SAIPAN	89		80		169	05-01-94
TINIAN	50		72		122	05-01-94
OTHER	20		13		33	12-01-90

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
PUERTO RICO:						
BAYAMON						
05-01--11-24	$107		$ 75		$182	11-01-94
11-25--04-30	130		77		207	11-25-94
CAROLINA						
05-01--11-24	107		75		182	11-01-94
11-25--04-30	130		77		207	11-25-94
FAJARDO (INCL CEIBA, LUQUILLO AND HUMACAO)						
04-16--12-10	65		52		117	10-01-93
12-11--04-15	110		52		162	12-11-93
FT. BUCHANAN (INCL GSA SERV CTR, GUAYNABO)						
05-01--11-24	107		75		182	11-01-94
11-25--04-30	130		77		207	11-25-94
MAYAGUEZ	85		65		150	08-01-92
PONCE	96		75		171	09-01-93
ROOSEVELT ROADS						
04-16--12-10	65		52		117	10-01-93
12-11--04-15	110		52		162	12-11-93
SABANA SECA						
05-01--11-24	107		75		182	11-01-94
11-25--04-30	130		77		207	11-25-94
SAN JUAN (INCL SAN JUAN COAST GUARD UNITS)						
05-01--11-24	107		75		182	11-01-94
11-25--04-30	130		77		207	11-25-94
OTHER 7/	63		52		115	08-01-92
VIRGIN ISLANDS OF THE U.S.:						
ST. CROIX						
04-15--12-14	119		73		192	08-01-94
12-15--04-14	169		78		247	12-15-94
ST. JOHN						
06-01--12-14	255		78		333	11-01-94
12-15--05-31	370		90		460	12-15-94
ST. THOMAS						
04-17--12-17	141		106		247	08-01-94
12-18--04-16	220		114		334	12-18-94
WAKE ISLAND 2/	30		25		55	10-01-94
ALL OTHER LOCALITIES	20		13		33	12-01-90

FOOTNOTES

1/ Commercial facilities are not available. The meal and incidental expense rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

2/ Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

3/ On any day when US Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $19.65 is prescribed to cover meals and incidental expenses at Shemya AFB, Clear AFS, Galena APT and King Salmon APT. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

4/ On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for U.S. Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

5/ On any day when U.S. Government or contractor quarters are available and U.S. Government or contractor messing facilities are used, a meal and incidental expense rate of $25 is prescribed instead of the rate prescribed in the table. This rate will be increased by the amount paid for U.S. Government or contractor quarters.

6/ The meal rates listed below are prescribed for the following locations in Alaska: Cape Lisburne RRL, Cape Newenham RRL, Cape Romanzof APT, Fort Yukon RRL, Indian Mtn RRL, Sparrevohn RRL, Tatalina RRL, Tin City RRL, Barter Island AFS, Point Barrow AFS, Point Lay AFS and Oliktok AFS. The amount to be added to the cost of government quarters in determining the per diem will be $3.50 plus the following amount:

	Daily Rate
DOD Personnel	$13

7/ (Eff 9-1-94) A per diem rate of $200 (lodging $148; M&IE $52) will be in effect for Las Croabas, Puerto Rico, during the Annual Conference of the National Association of State Boating Law Administrators (NASBLA) being held at the El Conquistador Resort and Country Club. This rate will be in effect from 4-12 September 1994 only for travelers attending the conferernce and only for travelers staying at the El Conquistador Resort.

BILLING CODE 5000–04–C

Dated: March 6, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–5870 Filed 3–9–95; 8:45 am]

BILLING CODE 5000–04–M

Office of the Deputy Assistant Secretary of the Navy (Conversion and Redevelopment); Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Reserve Center, Coconut Grove, Miami, FL

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Reserve Center, Coconut Grove, Miami, FL, the surplus property that is located at that closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474; or E. R. Nelson, Real Estate Division, Southern Division, Naval Facilities Engineering Command, 2155 Eagle Drive, North Charleston, SC 29419–9010, telephone (803) 743–0494. For detailed information regarding particular properties identified in this Notice (i.e. acreage, floor plans, sanitary facilities, exact street address, etc.), contact one of the above.

SUPPLEMENTARY INFORMATION: In 1991, the Naval Reserve Center, Coconut Grove, Miami, FL, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the majority of the land and facilities at this installation were on June 7, 1991, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election To Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 12, 1994, the City of Miami, FL, submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Reserve Center, Coconut Grove, Miami, FL, is published in the **Federal Register**:

Redevelopment Authority

The redevelopment authority for the Naval Reserve Center, Coconut Grove, Miami, FL, purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of Miami, FL. Day to day operations of the commission are handled by Mr. Cesar H. Odio, City Manager, P.O. Box 330708, Miami, FL 33233–0708, telephone (305) 250–5400 and facsimile (305) 285–1835.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Reserve Center, Coconut Grove, Miami, FL, that were declared surplus to the federal government on June 7, 1991.

Land

Approximately 3.27 acres of fee simple land at the Naval Reserve Center, Coconut Grove, Miami, FL.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the station closes. Property numbers are available on request.

—Administrative building (one structure). *Comments:* Approx. 12,330 square feet.

—Garage (one structure). *Comments:* Approx. 6,300 square feet with an attached paint storage shed of approx. 1,956 square feet.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Reserve Center, Coconut Grove, Miami, FL, shall submit to the City of Miami, FL, a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7 (C) and (D) of Section 2905(b), the City of Miami shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Miami, FL, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community

Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Commission elected to proceed under the new statute, i.e., December 12, 1994.

Dated: February 27, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–5842 Filed 3–9–95; 8:45 am]

BILLING CODE 3810–FF–P

Office of the Deputy Assistant Secretary of the Navy (Conversion and Redevelopment); Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Air Station, Dallas, TX—Duncanville Housing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Air Station, Duncanville Housing, Dallas, TX, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474; or E. R. Nelson, Real Estate Division, Southern Division, Naval Facilities Engineering Command, 2155 Eagle Drive, North Charleston, SC 29419–9010, telephone (803) 743–0494. For detailed information regarding particular properties identified in this Notice (i.e. acreage, floor plans, sanitary facilities, exact street address, etc.), contact Mr. Dave McAdams, Base Transition Office, Naval Air Station, Dallas, TX 75211, telephone (214) 266–6102.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Air Station, Dallas, TX, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the majority of the land and facilities at this installation were on December 3, 1993, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election to Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 7, 1994, the City of Duncanville, TX, submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Air Station, Duncanville Housing, Dallas, TX, is published in the **Federal Register**:

Redevelopment Authority

The redevelopment authority for the Naval Air Station, Duncanville Housing, Dallas, TX, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of Duncanville, TX. Day to day operations of the City are handled by Mr. Larry Shaw, Assistant City Manager. The address of the City is P.O. Box 380280, Duncanville, TX 75138–0280, telephone (214) 780–5002 and facsimile (214) 780–5077.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Air Station, Duncanville Housing, Dallas, TX, that were declared surplus to the Federal government on December 3, 1993.

Land

Approximately 3.00 acres of improved and unimproved fee simple land at the Naval Air Station, Duncanville Housing, Dallas, TX.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the Station closes in September 1997, unless otherwise indicated. Property numbers are available on request.

—Family Housing (9 units). Comments: Approx. 1,254 to 1,550 square feet.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Air Station, Duncanville Housing, Dallas, TX, shall submit to said city a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(C) and (D) of Section 2905(b), the City shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Dallas, TX, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Commission elected to proceed under the new statute, i.e., December 7, 1994.

Dated: February 27, 1995.

M. D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–5845 Filed 3–9–95; 8:45 am]

BILLING CODE 3810–FF–P

Department of the Navy

Office of the Deputy Assistant Secretary of the Navy (Conversion and Redevelopment); Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Civil Engineering Laboratory, Port Hueneme, CA

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Civil Engineering Laboratory, Port Hueneme, CA, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474; or Joanne Alsterlind, Real Estate Division, Engineering Field Activity West, Naval Facilities Engineering Command, 900 Commodore Drive, San Bruno, CA 94066–5006, telephone (415) 244–3821. For detailed information regarding particular properties identified in this Notice (i.e. acreage, floor plans, sanitary facilities, exact street address, etc.), contact Lieutenant Commander Dick Turnwall, Naval Civil Engineering Laboratory, 560 Center Drive, Port Hueneme, CA 93043–4328, telephone (805) 982–1646.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Civil Engineering Laboratory, Port Hueneme, CA, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the majority of the land and facilities at this installation were on July 11, 1994, declared surplus to the federal Government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election to Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 9, 1994, the City of Port Hueneme submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Civil Engineering Laboratory, Port Hueneme, CA, is published in the **Federal Register**:

Redevelopment Authority

The redevelopment authority for the Naval Civil Engineering Laboratory, Port Hueneme, CA, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Port Hueneme Surplus Property Authority for the City of Port Hueneme whose chief executive officer is the City Manager. The Port Hueneme Surplus Property Authority has established a committee to provide advice to the redevelopment authority on the redevelopment plan for the closing base. This committee is known as ''The NCEL Reuse Advisory Task Force.'' A cross section of community interests is represented on the committee. Day to day operations of the committee are handled by the City of Port Hueneme Community Development Director. The address of the committee is NCEL Reuse Advisory Task Force, c/o City of Port Hueneme, 250 North Ventura Road, Port Hueneme, CA 93041, telephone (805) 488–3625, and facsimile (805) 986–6511.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Civil Engineering Laboratory, Port Hueneme, CA, that were declared surplus to the federal government on July 11, 1994.

Land

Approximately 33 acres of improved and unimproved fee simple land at the U.S. Naval Civil Engineering Laboratory, Port Hueneme, CA.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the station closes on April 30, 1996, unless otherwise indicated. Property numbers are available on request.

—Administration/Office Buildings (15 structures). Comments: Approx. 105,060 square feet.
—Laboratories (31 structures). Comments: Approx. 112,798 square feet.
—Maintenance Shops (2 structures). Comments: Approx. 8,741 square feet.
—Miscellaneous Structures (16 structures). Comments: Fences, roads, sidewalks, etc.
—Sewage Facility (1 structure). Comments: Approx. 189 square feet.
—Storage facility (1 structure). Comments: Approx. 4,275 square feet.
—Utility facilities (8 structures). Comments: Measuring systems vary. Telephone, electric, gas, sewage, and water utility systems.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local government, representatives of the homeless, and other interested parties located in the vicinity of the Naval Civil Engineering Laboratory, Port Hueneme, CA, shall submit to said redevelopment authority a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7 (C) and (D) of Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Port Hueneme, CA, the date by which expressions of interest must be submitted. Under Section

2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the City of Port Hueneme elected to proceed under the new statute, i.e., December 9, 1994.

Dated: February 27, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–5844 Filed 3–9–95; 8:45 am]

BILLING CODE 3810–FF–P

Office of the Deputy Assistant Secretary of the Navy (Conversion and Redevelopment); Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Shipyard, Mare Island, Vallejo, CA

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Shipyard, Mare Island, Vallejo, CA, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474; or Hansel N. Harrison Jr., Real Estate Center, Engineering Field Activity West (Code 241), Naval Facilities Engineering Command, 900 Commodore Drive, San Bruno, CA 94066–5006, telephone (415) 244–3813. For detailed information regarding particular properties identified in this Notice (i.e. acreage, floor plans, sanitary facilities, exact street address, etc.), contact Commander John Becker, Base Closure Officer (Code 100B), Naval Shipyard, Mare Island, Vallejo, CA 94592–5100, telephone (707) 646–1920.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Shipyard, Mare Island, Vallejo, CA, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the majority of the land and facilities at this installation were on July 11, 1994, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election To Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 14, 1994, the City of Vallejo submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Shipyard, Mare Island, Vallejo, CA, is published in the **Federal Register**:

Redevelopment Authority

The redevelopment authority for the Naval Shipyard, Mare Island, Vallejo, CA, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of Vallejo, whose chief executive officer is the Mayor. The City has established a committee to provide advice to the redevelopment authority on the redevelopment for the closing shipyard. A cross section of community interests is represented on the committee. Day to day operations of the committee are handled by a Project Manager. The address of the redevelopment authority is Mr. Alvaro P. da Silva, Director of Community Development, City of Vallejo, 555 Santa Clara Street, P.O. Box 3068, Vallejo, CA 94590, telephone (707) 648–4444 and facsimile (707) 648–4499.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Shipyard, Mare Island, Vallejo, CA, that were declared surplus to the federal government on July 11, 1994.

Land

Approximately 4,050 acres of improved and unimproved fee simple land at the U.S. Naval Shipyard, Mare Island, Vallejo, CA.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the station closes on April 1, 1996, unless otherwise indicated. Property numbers are available on request.

—Ammunition storage (11 structures). Comments: Approx. 48,172 square feet.
—Bachelor quarters housing (20 structures). Comments: Approx. 401,411 square feet. Most have individual rooms.
—Chapels (2 structures). Comments: Approx. 13,611 square feet.
—Family housing (1,081 units). Comments: Approx. 1,259,907 square feet. Single family and multi-unit buildings, built between 1863 and 1966.
—Fire protection facilities (6 structures). Comments: Approx. 24,343 square feet.
—Fuel storage and distribution facilities (9 structures). Comments: Approx. 74 miles of pipeline and 213,135 gallons of storage capacity.
—Industrial/Shipyard facilities (172 structures). Comments: Approx. 32,647,461 square feet. Includes drydocks, slipways, machine shops, electrical shops, sawmill.
—Maintenance facilities (56 structures). Comments: Approx. 988,858 square feet. Electronic, automotive, housing, utility, and weapons systems maintenance.
—Medical and dental facilities (3 structures). Comments: Approx. 68,000 square feet.
—Mess and dining facilities (2 structures). Comments: Approx. 27,664 square feet. Enlisted and Officers' dining facilities.
—Marine improvements (31 structures). Comments: Piers, breakwalls, moorings, ferry slip.
—Office/administration buildings (65 structures). Comments: Approx. 675,891 square feet.
—Police Station (1 structure). Comments: Approx. 5,500 square feet.

—Recreational facilities, indoor (75 structures). Comments: Approx. 275,393 square feet. Gymnasium, field house, indoor pool, hobby shop, picnic sheds, bowling alley, clubs.

—Recreational facilities, outdoor (18 structures). Comments: Pools, playing fields, golf course.

—Stores and services facilities (12 structures). Comments: Approx. 66,769 square feet. Small retail facilities.

—Training facilities (31 structures). Comments: Approx. 734,435 square feet.

—Utilities. Comments: Measuring systems vary. Telephone, electrical, sanitary sewer, steam, railroads, roads, and water utility systems.

—Warehouse/storage facilities (45 structures). Comments: Approx. 1,348,120 square feet.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Shipyard, Mare Island, shall submit to said redevelopment authority a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7 (C) and (D) of Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Vallejo, CA, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the City of Vallejo elected to proceed under the new statute, i.e., December 14, 1994.

Dated: February 25, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–5843 Filed 3–9–95; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before April 10, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherril at the address specified above.

Dated: March 6, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Special Education and Rehabilitative Services

Type of Review: Extension
Title: Interim Title I State Plan for the State Vocational Rehabilitation Services Program and the Title VI, Part C State Plan Supplement for the State Supported Employment Services Program
Frequency: Annually
Affected Public: Individuals or households; Not-for-profit institutions; State, Local or Tribal Government
Reporting Burden:
Responses: 82
Burden Hours: 1,548,160
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: The Rehabilitation Act of 1973, as amended, requires each State to submit a State Plan for VR services and a supplement for supported employment services to receive Federal funds. The State Plan is the basis upon which RSA monitors State VR agency compliance with statutory and regulatory provisions.

Office of Postsecondary Education

Type of Review: Revision
Title: Paul Douglas Teacher Scholarship Program Performance Report
Frequency: Annually
Affected Public: Federal Government; State, Local or Tribal Government
Reporting Burden:
Responses: 57
Burden Hours: 285
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This performance report is completed by State agencies that have participated in the Paul Douglas Teacher Scholarship Program. The U.S. Department of Education uses the information collected to assess the accomplishments of the program goals and objectives and to aid in effective program management.

[FR Doc. 95–5867 Filed 3–9–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by April 31, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: March 6, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: Expedited
Title: Organization for Economic Cooperation and Development (OECD) Cross Curricular Competency Pilot Test
Frequency: Annually
Affected Public: Individuals and households; Not-for-profit institutions
Reporting Burden:
Responses: 1,200
Burden Hours: 1,200
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This study is being conducted to test the reliability of a student test developed by the OECD. This instrument only includes questions previously tested and used in at least one country. All respondents will be tenth grade students. Topics to be assessed are civics and survival skills.

Additional Information: An expedited review is requested. OMB clearance of the OECD Cross Curricular Competency Pilot Test by April 31, 1995 will allow adequate time to administer the test during this school year, and to incorporate any needed changes into the full scale version.

[FR Doc. 95–5868 Filed 3–9–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by March 8, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: March 6, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Expedited
Title: Application for Grants—Public Charter Schools Program
Frequency: Annually
Affected Public: Individuals or households; Businesses or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government
Reporting Burden:
Responses: 1,000
Burden Hours: 200
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: State educational agencies, authorized public chartering agencies, and charter schools must submit an

application to receive funds.
applications are analyzed to ensure that funds are distributed fairly and projects are cost effective

Additional Information: Clearance for this information collection is requested for March 8, 1995. An expedited review is requested in order for SEAs to have sufficient time to conduct their competitions and award subgrants so that the charter schools that they fund can begin in September 1995.

[FR Doc. 95–5869 Filed 3–9–95; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No.: 84.999F]

The National Assessment of Educational Progress (NAEP) Program Notice Inviting Applications for New Awards for Fiscal Year 1995

Purpose of Program: To conduct data collection for the national component of NAEP in 1996, 1997, and 1998; to monitor data collection for the State component of the 1996 and 1998 NAEP assessments; and to prepare sampling weights for the State and national components of the 1996, 1997, and 1998 assessments. It is anticipated that the 1996 NAEP will be conducted at the national level in reading, mathematics and science in grades 4, 8 and 12 and at the State level in mathematics and science in grade 8 and possibly at grade 4. The 1997 NAEP will be a national assessment of the arts (dance, theater, music, visual arts) conducted in grade 8 only, with a smaller than normal sample of students. (However, increases in the scope of the arts assessment are possible.) It is anticipated that the 1998 NAEP will assess reading, writing and mathematics at the national level, and reading and writing at the State level in grades 4, 8, and 12. NAEP supports the National Education Goals by providing measures of progress toward National Education Goal Three, student competency over challenging subject matter.

Eligible Applicants: Public, private, for-profit, and non-profit institutions, agencies, and other qualified organizations or consortia of such institutions, agencies, and organizations.

Deadline for Transmittal of Applications: April 25, 1995.

Applications Available: March 15, 1995.

Available Funds: The Department estimates that about $800,000 can be made available in fiscal year 1995 for this project.

Estimated Number of Awards: 1.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, 86; and (b) The regulations in 34 CFR Part 98 (Students Rights in Research, Experimental Activities, and Testing).

SUPPLEMENTARY INFORMATION: The National Assessment of Educational Progress is authorized by Section 411 of the National Education Statistics Act of 1994, Title IV of the Improving America's Schools Act (20 U.S.C. 9010). Section 412 (20 U.S.C. §§ 9011) of this law provides for the establishment of the National Assessment Governing Board (NAGB). The law requires NAGB, among other responsibilities, to formulate the policy guidelines for the National Assessment and select the subject areas to be assessed. Copies of these guidelines are available from the Department. One cooperative agreement is currently in effect to develop, field test, revise, and prepare for a State and national component of NAEP in 1996. There will be a separate announcement for scoring, analyzing, and reporting data from the 1996, 1997, and 1998 assessments. This notice is limited to seeking applications for activities in connection with the 1996, 1997 and 1998 NAEP assessments.

Priorities:

Absolute Priority: Under 34 CFR 75.105(c)(3) and 20 U.S.C. §§ 9010–9011, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary, under 20 U.S.C. §§ 9010–9011, funds under this competition only applications that meet this absolute priority:

Collection of data for the 1996, 1997, and 1998 NAEP and preparation of sampling weights for the State and national components of the 1996, 1997, and 1998 assessments.

The grantee must perform these activities in accordance with guidelines developed by the NAGB.

Invitational Priority: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Conduct Transcript Study based upon graduating seniors in the 1996 NAEP sample.

Selection Criteria

Applications are evaluated according to the selection criteria in 34 CFR 75.210. Under 34 CFR 75.210(c), the Secretary is authorized to distribute an additional 15 points among the selection criteria to bring the total possible points to a maximum of 100 points. For the purpose of this competition, the Secretary will distribute the additional points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Fifteen (15) additional points will be added for a possible total of 30 points for this criterion.

For Applications or Information Contact: Steven Gorman, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 308b, Washington, DC 20208–5653. Telephone: (202) 219–1761. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 9010, 9011.

Dated: March 6, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–5898 Filed 3–9–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Notice of Floodplain and Wetlands Involvement for the Lower Red River Meadow Project

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Floodplain and Wetlands Involvement.

SUMMARY: BPA proposes to fund the Red River Meadow Juvenile Chinook Habitat Restoration Project in a cooperative effort with the Idaho Soil and Water Conservation District, Nez Perce National Forest, Idaho Department of Fish and Game, and Nez Perce Tribe of Idaho. The proposed action would allow the sponsors to secure long-term agreements with private and public landowners to conduct stream restoration and fisheries habitat

enhancement activities located in Idaho County, Idaho, near Elk City (T28, R9E, Secs. 18 and 19).

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands.

The assessment will be included in the environmental assessment (EA) being prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. A floodplain statement of findings will be included in any finding of no significant impact that may be issued following the completion of the EA.

DATES: Comments are due to the address below no later than April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Beraud, ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–621, phone number 503–230–3599, fax number 503–230–5699, or Robert Shank, ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621, phone number 503–230–5115.

SUPPLEMENTARY INFORMATION: BPA proposes to stabilize the stream channel, restore fishery habitat features, and re-establish a riparian shrub community. The project area is roughly 7.1 km (4.4 miles) of state and privately owned land located adjacent to the Red River. The majority of the land is currently used for cattle grazing. The proposed activities are necessary to partially mitigate for juvenile chinook salmon spawning and rearing habitat adversely affected by construction and operation of the lower Snake and Columbia River dams and reservoirs.

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on March 2, 1995.

John M. Taves,

NEPA Compliance Officer, Office of Environment/Fish and Wildlife.

[FR Doc. 95–6020 Filed 3–9–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Wetlands Involvement for the Skyline Farm Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Wetlands Involvement.

SUMMARY: Today's notice announces BPA's proposal to transfer Skyline Farm's water rights from agricultural use to in-stream use for fish. Skyline Farm encompasses about 3640 hectares (9,000 acres) with approximately 50,000 acre-feet of water rights and is located in Malheur County, Oregon. In July 1994, BPA entered into a 1- to 3-year purchase option and water use agreement with the main owner of Skyline Farm. This agreement allows BPA to file application with the state to temporarily transfer use of 16,000 acre-feet of water per year from agricultural use to in-stream use for fish and hydropower generation and evaluate the effects. The purpose of this agreement is to carry out part of the Northwest Power Planning Council's program to increase stream flows in the upper Snake River Basin for salmon and steelhead. This proposal could impact wetlands that occur on the Skyline Farm property. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 C.F.R. Part 1022), BPA will prepare a wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected wetlands. The assessment will be included in the environmental assessment being prepared for the proposed project in accordance with the National Environmental Policy Act.

DATES: Comments are due to the address below no later than April 17, 1995.

ADDRESSES: Submit comments to the Public Involvement and Information Manager, Bonneville Power Administration—CKP, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION, CONTACT: Nancy A. Wittpenn, Bonneville Power Administration—ECN–500, P.O. Box 3621, Portland, Oregon 97208–3621, phone number 503–230–3297, fax number 503–230–5699.

SUPPLEMENTARY INFORMATION: On the Skyline Farm property, palustrine emergent wetlands occur in drainages located in sections 2, 3, and 4 within Township 18 South, Range 46 East, and in sections 1, 2, 10–17, 20–23, 26–28, and 32–35 within Township 17 South, Range 46 East. Palustrine scrub-shrub wetlands associated with water impoundments within Jacobsen Gulch occur in sections 10, 14, and 16 within Township 17 South, Range 46 East.

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on March 2, 1995.

John M. Taves,

NEPA Compliance Officer for Fish and Wildlife.

[FR Doc. 95–6019 Filed 3–9–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Arms Control and Nonproliferation; Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed ''subsequent arrangement'' under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, the Agreement for Cooperation between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement would give approval, which must be obtained under the above-mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: Switzerland to the United Kingdom for the purpose of reprocessing 140 irradiated fuel assemblies containing approximately 57,000 kilograms of uranium and containing 460 kilograms of the isotope uranium-235 (enriched to approximately 0.81 percent) and 590 kilograms of plutonium from the Gosgen nuclear power station. This subsequent arrangement is designated as RTD/EU(SD)-80.

The United States has received assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored in the United Kingdom, and will not be transferred from the United Kingdom, nor put to any use, without the prior consent of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section

131(b)(1) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), are submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

Issued in Washington, DC on March 6, 1995.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy, Office of Arms Control and Nonproliferation.

FR Doc. 95–6029 Filed 3–9–95; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award: Kemp Development Corporation

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE-FG01–95EE15622 to Kemp Development Corporation. The proposed grant will provide funding in the estimated amount of $99,995 by the Department of Energy for the purpose of saving energy through development of the inventor's ''Automated Thermal Treatment of Metals With a Mechanically Fluidized Vacuum Machine''.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Kemp Development Corporation is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology is expected to provide energy savings of 50 percent and will incorporate a number of new features including computer control and rapid cooling. The inventor and principal investigator, Willard Kemp, is the president of Kemp Development Corporation. He has 54 U.S. patents in various fields and is a registered professional engineer in Ohio and Texas. Kemp Development Corporation will use its engineering facilities for designing, constructing, and operating the prototype unit. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 24 months from the date of award.

Issued in Washington, D.C. on February 27, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–6017 Filed 3–9–95; 8:45 am]

BILLING CODE 6450–01–P

DOE Response to Recommendation 94–2 of the Defense Nuclear Facilities Safety Board, Conformance With Safety Standards at DOE Low-Level Nuclear Waste and Disposal Sites

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Defense Nuclear Facilities Safety Board published Recommendation 94–2, concerning Conformance with Safety Standards at DOE Low-Level Nuclear Waste and Disposal Sites, in the Federal Register on September 15, 1994 (59 FR 47309). Section 315(e) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(e) requires the Department of Energy to transmit an implementation plan to the Defense Nuclear Facilities Safety Board by February 14, 1995, or submit a notification of extension for an additional 45 days. The Secretary's notification of extension for an additional 45 days follows.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's notification to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Grumbly, Assistant Secretary for Environmental Management, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, DC, on February 27, 1995.

Mark B. Whitaker,

Departmental Representative to the Defense Nuclear Facilities Safety Board.

The Honorable John T. Conway,
Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004

Dear Mr. Chairman: This is to advise you, pursuant to 42 USC 2286d(e), that the Department of Energy (Department) needs an additional 45 days to respond to the Defense Nuclear Facilities Safety Board Recommendation 94–2, Conformance with Safety Standards at Department of Energy Low-Level Nuclear Waste and Disposal Sites.

The Department has established a Headquarters/Field task force to develop the Implementation Plan, which is receiving considerable input from the field. An integrated systems approach is being used to develop the Implementation Plan. Discussions between the Department and the Board staff have been constructive in developing a responsive plan. However, a 45-day extension is required to more clearly define a cost-effective and efficient approach for conducting the complex-wide riview necessary to establish the dimensions of the low-level waste disposal problem. The Implementation Plan for Recommendation 94–2 will be provided by March 31, 1995.

Sincerely,

Hazel R. O'Leary.

[FR Doc. 95–6022 Filed 3–9–95; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Efficiency and Renewable Energy

Motor Challenge Meeting

AGENCY: Department of Energy (DOE), Office of Industrial Technologies.

ACTION: Notice of Motor Challenge Roundtable on Market Transformation Strategies for Electric Motor Systems.

SUMMARY: The Department of Energy's Motor Challenge Program is convening a Roundtable on Market Transformation. The purpose of the Roundtable is to draw from the experience of the roundtable participants and seek their independent opinions and ideas for developing and implementing the market transformation aspect of the Motor Challenge Program. The roundtable will be comprised of 60 experts from across the country.

DATES: Tuesday, April 18, 1995, 1:00–5:30 PM; and Wednesday, April 19, 1995, 8:30 am to 4:30 pm.

ADDRESSES: Hyatt Regency O'Hare, 9300 West Bryn Mawr Avenue, Rosemount, IL 60018.

FOR FURTHER INFORMATION CONTACT: Motor Challenge Information Clearinghouse 925 Plum Street, SE,

Bldg. 4, Olympia, WA 98504, 1–800–862–2086.

SUPPLEMENTARY INFORMATION: Market Transformation is an industry-driven process whereby industrial users, equipment suppliers, utilities, government agencies and the efficiency community work to facilitate and implement initiatives aimed at enhancing the market for higher performance electric motor system equipment that meets user performance and service needs.

Market transformation is envisioned to be a series of well-coordinated market enabling and technology commercialization activities. Many of the activities will be designed to encourage the development and adoption of enhanced products and services to capture systems integration opportunities which represent the vast majority of energy savings opportunities.

I. Market Transformation Strategies for Electric Motor Systems Report

Over the past year the Department of Energy's Motor Challenge Program has been working with industry, utilities and other organizations to gather input and guide the development of strategies to capitalize on motor systems efficiency opportunities. Drawing on inputs received from the public over the past year, DOE has prepared a draft report on Market Transformation Strategies for Electric Motor Systems. The contents of the report will be the focus of the discussions at the Roundtable.

A. Topics presented in the draft report include:

(1) Description of the market-oriented process employed to formulate the market transformation strategies;

(2) Identification of factors that can produce market change, and the characteristics of a transformed market;

(3) Identification of a series of consistent, voluntary ''win-win'' strategies for transforming the three targeted industrial market segments;

(4) Identification of the potential roles of private and public sector market players, and proposed partnerships;

(5) Estimated direct impacts and indirect benefits; and

(6) Discussion of how market players can get involved in the market transformation process.

II. Market Transformation Process

With regard to Motor Systems, the market transformation process involves the development and promotion of economically viable energy efficiency products and services, development of the market infrastructure, and enhancing awareness of the benefits of developing and using efficient and environmentally friendly technologies, products and services.

Examples of strategies to sustain transformation of the motor systems market include:

(A) Enabling actions to strengthen/develop market infrastructure:

(1) Voluntary specifications & protocols—(e.g., performance measurement and test procedures, guidelines, certification, product labeling, product directories, etc.)

(2) Marketing & consumer education of the systems approach concept

(3) Information and decision tools

(4) Showcase Demonstrations & field validation

(5) Motor system management training (motors, drives, and motor systems)

(B) Direct market actions to aid in product & services commercialization:

(1) Voluntary commitments & recognition

(2) Market aggregation mechanisms (common user specifications, purchasing commitments to create guaranteed markets)

(3) Performance system ortimization services

(4) Voluntary product labeling

(5) Government procurement (Federal, federal/state procurement partnerships)

(6) Technology development (improved engineering designs that meet user-driven performance characteristics)

(7) Activities encouraging more rapid retirement of inefficient equipment by end-users

Documents

The DOE draft report on Market Transformation Strategies for Electric Motor Systems, and other documents relating to the Roundtable meeting will be publicly available at the meeting, and thereafter available for public inspection at the Department of Energy, Freedom of Information Reading Room, Room 1E190, 1000 Independence Avenue, S.W., Washington, DC 20585, between the hours 9:00 am to 4:00 pm, Monday through Friday, except Federal holidays.

Issued in Washington, DC, on February 23, 1995.

Kurt D. Sisson,

Acting Associate Deputy Assistant Secretary for Industrial Technologies, Energy Efficiency and Renewable Energy.

[FR Doc. 95–6018 Filed 3–9–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. TM95–4–30–000]

Trunkline Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

March 6, 1995.

Take notice that on March 1, 1995, Trunkline Gas Company (Trunkline) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of April 1, 1995:

Eighth Revised Sheet No. 6
Eighth Revised Sheet No. 7
Eighth Revised Sheet No. 8
Eighth Revised Sheet No. 9
Eighth Revised Sheet No. 10

Trunkline states that this filing is being made in accordance with Section 22 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Trunkline's FERC Gas Tariff, First Revised Volume No. 1.

Trunkline further states that the revised tariff sheets filed herewith reflect: (1) a (0.41)% decrease (Field Zone to Zone 2), a (0.45)% decrease (Field Zone to Zone 1B), a (0.37)% decrease (Field Zone to Zone 1A), a (0.21)% decrease (Field Zone only), a (0.31)% decrease (Zone 1A to Zone 2), (0.35)% decrease (Zone 1A to Zone 1B), a (0.15)% decrease (Zone 1B to Zone 2), a (0.27)% decrease (Zone 1A only), a (0.19)% decrease (Zone 1B only) and a (0.07)% decrease (Zone 2 only) to the Current Fuel Reimbursement Percentages, pursuant to Section 22.3; and (2) continuation of the 0.13% to all zones for the Annual Fuel Reimbursement Surcharge, pursuant to Section 22.4

Trunkline states that copies of this filing have been served on all jurisdictional transportation customers and applicable state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5893 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–10–29–000]

Transcontinental Gas Pipe Line Corp.; Notice of Filing

March 6, 1995.

Take notice that on March 1, 1995 Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing certain revised tariff sheets to Third Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff enumerated in Appendix A attached to the filing.

TGPL states that the instant filing is submitted pursuant to Section 38 of the General Terms and Conditions of TGPL's FERC Gas Tariff which provides that TGPL will file, to be effective each April 1, a redetermination of its fuel retention percentages applicable to transportation and storage rate schedules. The derivation of the revised fuel retention percentages included therein are based on TGPL's estimate of gas required for operations (GRO) for the forthcoming annual period April 1995 through March 1996 plus the balance accumulated in the Deferred GRO Account at January 31, 1995.

TGPL states that it is serving copies of the instant filing to its customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5892 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–93–001 and RP91–212–014]

Stingray Pipeline Co.; Notice of Compliance Filing

March 6, 1995.

Take notice that on March 1, 1995, Stingray Pipeline Company (Stingray), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective February 15, 1995:

Third Revised Sheet No. 5
Fourth Revised Sheet No. 56
Third Revised Sheet No. 57

Stingray states that the purpose of the filing is to comply with the Federal Energy Regulatory Commission's (Commission) ''Order Denying Request For Extension Of Experimental Program,'' issued February 14, 1995, 70 FERC Paragraph 61,171 (1995). Stingray was directed to eliminate references to its experimental market-based interruptible rate program.

Stingray requested waiver of the Commission's Regulations to the extent necessary to permit the above tariff sheets to become effective February 15, 1995.

Stingray states that copies of its filing were served on all parties to this proceeding, jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a motion to protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5891 filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–3–28–000]

Panhandle Eastern Pipe Line Co.; Notice of Proposed Changes in FERC Gas Tariff

March 6, 1995.

Take notice that on March 1, 1995, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets listed on Appendix A hereto. The proposed effective date of these revised tariff sheets is April 1, 1995.

Panhandle states that this filing is made in accordance with Section 24 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets filed herewith reflect the following changes to the Fuel Reimbursement Percentages:

(1) A .01% increase in the Gathering Fuel Reimbursement Percentage;
(2) A .08% increase in the Field Zone Fuel Reimbursement Percentage;
(3) No change in the Market Zone Fuel Reimbursement Percentage;
(4) No change in the Field Area Storage Percentages; and
(5) No change in the Market Area Storage Percentages.

Panhandle states that copies of this filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before March 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

Appendix A—Panhandle Eastern Pipe Line Company, FERC Gas Tariff, First Revised Volume No. 1

Effective April 1, 1995

Fourteenth Revised Sheet No. 4
Fourteenth Revised Sheet No. 5
Fourteenth Revised Sheet No. 6
Fourteenth Revised Sheet No. 7
Fourteenth Revised Sheet No. 8

[FR Doc. 95–5890 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT93–31–001]

Northwest Pipeline Corp.; Notice of Refund Report

March 6, 1995.

Take notice that on March 1, 1995, Northwest Pipeline Corporation (Northwest), tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report in the above referenced docket.

Northwest states that the refund detailed in the instant filing was ordered by the Commission on November 26, 1993. The refund was paid on January 31, 1995 and is comprised of the remaining ten percent of 1992 Gas Inventory Charge revenues plus accrued interest through January 31, 1995.

Northwest states that a copy of this filing has been served upon all affected customers and relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before March 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5889 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–2–37–000]

Northwest Pipeline Corporation; Proposed Change in FERC Gas Tariff

March 6, 1995.

Take notice that on March 1, 1995, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff the following tariff sheets and a proposed effective date of April 1, 1995:

Third Revised Volume No. 1

Third Revised Sheet No. 14

Original Volume No. 2

Thirteenth Revised Sheet No. 2.1

Northwest states that the purpose of this filing is to implement new fuel use requirements factors (Factors) for Northwest's transportation and storage rate schedules. The Factors are determined each year to become effective April 1 pursuant to Section 14.12 of the General Terms and Conditions contained in Northwest's FERC Gas Tariff, Third Revised Volume No. 1, and pursuant to Section 5 of Sheet No. 2.1 in Northwest's FERC GAs Tariff, Original Volume No. 2.

Northwest states that coincidental with the submission of this filing Northwest is submitting another superseding filing with the same proposed effective date of April 1, 1995 to propose changes to the methodology for calculating the Factors. Northwest states that the changes will provide Northwest with a mechanism to recover certain costs related to its investments necessary to maintain gas supplies to replace lost and unaccounted-for volumes.

Northwest states that a copy of this filing has been served upon Northwest's jurisdictional customers and upon relevant state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Practice and Procedure. All such motions or protests should be filed on or before March 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5888 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–2–5–000]

Midwestern Gas Transmission Company; Tariff Filing

March 6, 1995.

Take notice that on March 1, 1995, Midwestern Gas Transmission Company (Midwestern), filed Substitute Original Sheet No. 6 of its FERC Gas Tariff, Second Revised Volume No. 1, for an effective date of September 1, 1993.

Midwestern states that this tariff sheet is filed pursuant to Section 2 of Midwestern's Rate Schedule LMS–MA which provides that Midwestern shall automatically adjust the rates associated with its no-notice, Daily Demand Service (DDS) to reflect any changes in the rates charged by Tennessee Gas Pipeline Company (Tennessee) for its LMS–MA service.

Midwestern further states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR Sections 385.211 and 385.214. All such petitions or protests should be filed on or before March 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5887 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT95–26–000]

El Paso Natural Gas Company; Tariff Filing

March 6, 1995.

Take notice that on March 1, 1995, El Paso Natural Gas Company (El Paso), tendered for filing pursuant to Part 154 of the Federal Energy Regulatory Commission (Commission) Regulations Under the Natural Gas Act, certain revised tariff sheets to its Second Revised Volume No. 1–A, and Third Revised Volume No. 1, FERC Gas Tariff.

El Paso states that the tendered tariff sheets reflect an address change applicable to payments made other than by wire transfer which are remitted to El Paso. El Paso proposes to revise the applicable tariff provisions to state that payment should be received at a depository designated by El Paso rather than in El Paso's offices.

El Paso respectfully requests that the Commission accept the tendered tariff sheets for filing and permit them to become effective on April 1, 1995, which is not less than thirty (30) days after the date of the filing.

El Paso states that copies of the filing were served upon all of El Paso's interstate pipeline system customers

and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5886 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–3–33–000]

El Paso Natural Gas Company; Tariff Filing

March 6, 1995.

Take notice that on March 1, 1995, El Paso Natural Gas Company (El Paso), tendered for filing and acceptance pursuant to Part 154 of the Federal Energy Regulatory Commission (Commission) Regulations Under the Natural Gas Act, a revision to the rates and charges for El Paso's Take-or-Pay Buyout and Buydown Cost Recovery for interest in accordance with Sections 22 and 21, Take-or-Pay Buyout and Buydown Cost Recovery, of its Second Revised Volume No. 1–A and Third Revised Volume No. 1 FERC Gas Tariff, respectively.

El Paso states that the interest revision results in a Take-or-Pay Throughput Surcharge of $0.0348 per dth (a decrease of $0.0006. El Paso also states that its Monthly Direct Charges have been fully amortized for the currently authorized amounts. However El Paso proposes to recover the remaining interest related to the Monthly Direct Charge as a one-time adjustment which totals only $3,152.00.

El Paso requests that the Commission accept the tendered tariff sheets for filing and permit them to become effective April 1, 1995, which is not less than thirty (30) days after the date of filing.

El Paso states that it has served a copy of the filing, together with all enclosures, except for the diskettes, on all affected interested pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

FR Doc. 95–5885 Filed 32–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT95–25–000]

Algonquin Gas Transmission Company; Proposed Changes in FERC Gas Tariff

March 6, 1995.

Take notice that on March 1, 1995, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Fifth Revised Sheet No. 1100
Fifth Revised Sheet No. 1101
Fifth Revised Sheet No. 1102
Fifth Revised Sheet No. 1103
Fifth Revised Sheet No. 1104
Fifth Revised Sheet No. 1105
Fifth Revised Sheet No. 1106
Fifth Revised Sheet No. 1107
Fifth Revised Sheet No. 1108
Fourth Revised Sheet No. 1109

The proposed effective date of the tariff sheets is April 1, 1995.

Algonquin states that the purpose of this filing is to revise Algonquin's index of purchasers.

Algonquin states that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5584 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[P–7264–008]

Notice of Application

March 6, 1995.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Transfer of License and Approval of Lease.

b. Project No: 7264–008.

c. Date Filed: October 5, 1994.

d. Applicants: Fox Valley Corp., Appleton Machine Co., and Appleton Mills.

e. Name of Project: Appleton Middle Dam Project.

f. Location: Fox River, Outagamie County, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Donald H. Clarke, Esq., Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006, (202) 783–4141.

i. FERC Contact: Patricia A. Massie, (202) 219–2681.

j. Comment Date: March 30, 1995.

k. Description of Transfer and Lease: Applicants jointly and severally apply for transfer of the license from Fox Valley Corp., Appleton Machine Co., and Appleton Mills to Fox River Paper Company, A–C Compressor Corporation, Valmet-Appleton Incorporated, and N.E.W. Hydro, Inc. Applicants also request Commission approval of the lease of certain project facilities to N.E.W. Hydro, Inc. consistent with the terms of the transfer. N.E.W. intends to renovate, restore, and remodel the Powerhouse, resulting in improved efficiency of that generating unit.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210,

385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTESTS'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5883 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–96–007 et al.]

Delmarva Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

March 2, 1995.

Take notice that the following filings have been made with the Commission:

1. Delmarva Power & Light Company

[Docket No. ER93–96–007]

Take notice that on February 24, 1995, Delmarva Power and Light Company tendered for filing supplemental information to its compliance report filed in the above-referenced docket on February 3, 1995.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Boston Edison Company

[Docket Nos. ER93–150–006 and EL93–10–005]

Take notice that on February 21, 1995, Boston Edison Company tendered for filing its compliance report in the above-referenced dockets.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Rainbow Energy Marketing Corporation

[Docket No. ER94–1061–003]

Take notice that on February 7, 1995, Rainbow Energy Marketing Corporation filed a letter reporting no activity for the quarter ending December 31, 1994.

4. Arizona Public Service Company

[Docket No. ER95–427–000]

Take notice that on February 24, 1995, Arizona Public Service Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Electric Generating Company

[Docket No. ER95–573–000]

Take notice that on February 1, 1995, Southern Electric Generating Company (SEGCo) tendered for filing information concerning the adoption of certain accounting methods for accumulated deferred income taxes benefits other than pensions as set forth in the Statement of Financial Accounting No. 109 by the Financial Accounting Standards Board.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Midwest Energy, Inc.

[Docket No. ER95–590–000]

Take notice that an February 10, 1995, Midwest Energy, Inc. (Midwest), tendered for filing electric service tariffs for municipal electric systems located in Central and Western Kansas, a municipal transmission service tariff and an electric transmission tariff related to wholesale electric transmission service to one customer, Sunflower Electric Power Corporation.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER95–612–00]

Take notice that on February 8, 1995, Louisville Gas and Electric Company (LG&E) tendered for filing a Notice of Cancellation of Rate GSS between LG&E and CNG Power Services.

Comment date: March 15, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Bangor Hydro-Electric Company

[Docket No. ER95–623–000]

Take notice that on February 21, 1995, Bangor Hydro-Electric Company (Bangor), tendered for filing Rate Schedule No. FERC No. 52 (Fifteenth Revision) for full requirements service to Isle Au Haut Electric Power Company.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Northern States Power Company (Minnesota)

[Docket No. ER95–627–000]

Take notice that on February 21, 1995, Northern States Power Company (Minnesota) (NSP), tendered for filing the Construction Agreement between NSP and the City of Sleepy Eye (Sleepy Eye) dated January 25, 1995. This agreement allows Sleepy Eye to add a new switch at the Sleepy Eye substation to eliminate the need to energize the entire substation for maintenance work.

NSP requests that the Commission accept for filing this agreement effective as of the date of execution, January 25, 1995, and requests waiver of Commission's notice requirements in order for the Agreement to be accepted for filing on that date. NSP requests that the Agreement be accepted as a supplement to Rate Schedule No. 393, the rate schedule for previously filed agreements between NSP and Sleepy Eye.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER95–629–000]

Take notice that on February 21, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies), filed an executed Service Agreement between GPU and Pennsylvania Power & Light Company (PP&L), dated February 2, 1995. This Service Agreement specifies that PP&L has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff)

designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU and PP&L to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy to negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of February 2, 1995 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER95–630–000]

Take notice that on February 21, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide non-firm transmission service to Bio Energy Corporation (BEC) under the NU System Companies' Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to BEC.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Southern California Edison Company

[Docket No. ER95–632–000]

Take notice that on February 21, 1995, Southern California Edison Company tendered for filing as an initial rate schedule the following agreement with State of California, Department of Water Resources (CDWR):

Mojave Siphon, Additional Facilities and Firm Transmission Service Agreement Between Southern California Edison Company and State of California Department of Water Resources (Agreement)

The Agreement specifies the terms and conditions under which Edison will install, own, operate, and maintain Additional Facilities, as defined in the Agreement, to accommodate interconnection of CDWR's Mojave Siphon Hydroelectric Power Plant (Mojave Siphon). Additionally, the Agreement provides for 28 MW of firm transmission service from Mojave Siphon to Edison's Vincent Substation. Edison requests an effective date of April 1, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Madison Gas and Electric Company

[Docket No. ER95–633–000]

Take notice that on February 21, 1995, Madison Gas and Electric Company (MGE) tendered for filing a service agreement with Rainbow Energy Marketing Corporation under MGE's Power Sales Tariff. MGE requests an effective date 60 days from the date of filing.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power Corporation

[Docket No. ER95–634–000]

Take notice that on February 22, 1995, Florida Power Corporation tendered for filing a tariff providing for comprehensive transmission service. Florida Power states that the tariff provides for transmission service on a basis comparable to the uses the Company makes of its transmission system to service its own requirements customers.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Georgia Power Company

[Docket No. ER95–631–000]

Take notice that on February 21, 1995, Georgia Power Company filed a letter agreement dated January 6, 1995 revising the Contract executed by the United States of America, Department of Energy, acting by and through the Southeastern Power Administration and Georgia Power Company. The letter agreement extends the term of the existing Contract to allow the parties to continue negotiations of a new arrangement.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. The Cincinnati Gas & Electric Company

[Docket No. ER95–625–000]

Take notice that The Cincinnati Gas & Electric Company (CG&E) on February 21, 1995, tendered for filing its proposed changes in its FERC Electric Service Tariff, First Revised Volume No. 1, which cancel and supersede rate schedule WS–S in said tariff. The proposed changes would increase revenues from jurisdictional sales and service by $351,000 based on the 12 month period ending December 31, 1995.

The reasons stated by CG&E for the change in rate schedule are (a) to implement the June 1, 1995 rates set forth in the Service and Rate Agreements as filed with this Commission in Docket No. ER91–353–000 and, (b) to satisfy requirements imposed in Docket Nos. EC93–6–000 and EC93–6–001.

Copies of the filing were served upon the Villages of Bethel, Blanchester, Georgetown, Hamersville, Ripley, and the City of Lebanon, municipalities in the State of Ohio; The Union Light, Heat and Power Company, a wholly-owned subsidiary of CG&E, which ultimately serves retail consumers and one wholesale customer within the Commonwealth of Kentucky; The West Harrison Gas and Electric Company, a wholly-owned subsidiary of CG&E, which ultimately serves retail consumers within the State of Indiana; the Public Utilities Commission of Ohio; the Kentucky Public Service Commission; and the Indiana Utility Regulatory Commission.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Northern States Power Company (Minnesota)

[Docket No. ER95–628–000]

Take notice that on February 21, 1995, Northern States Power Company (Minnesota) (NSP), tendered for filing the Construction Agreement between NSP and the City of New Ulm (New Ulm) dated January 31, 1995. This agreement allows New Ulm to add a remote terminal unit (RTU) and associated equipment in NSP's Fort Ridgely substation providing the interface between NSP's equipment and New Ulm's Master Station (SCADA system).

NSP requests that the Commission accept this agreement for filing effective as of the date of execution, January 31, 1995, and requests waiver of Commission's notice requirements in order for the Agreement to be accepted for filing on that date. NSP requests that the Agreement be accepted as a supplement to Rate Schedule No. 398, the rate schedule for previously filed agreements between NSP and New Ulm.

Comment date: March 16, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5966 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–113–000]

KN Interstate Gas Transmission Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Casper-Douglas Pipeline Loop and Spur Project and Request for Comments on Environmental Issues

March 6, 1995.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss environmental impacts of the construction and operation of facilities proposed in the Casper-Douglas Pipeline Loop and Spur Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.

Summary of the Proposed Project

KN Interstate Gas Transmission Company (KN) presently owns and operates a natural gas processing plant in Casper, Wyoming (Casper Plant) constructed in 1965. Because of the dated technology used to remove heavy hydrocarbons from the gas, the Casper Plant is outmoded and environmentally inefficient to operate. The plant requires large volumes of fuel gas, and freon, as a refrigerant. Because the production of freon has ceased and the existing supply of freon at the plant is finite, KN proposes to close the Casper Plant.

KN wants to reconfigure its main natural gas transmission system in order to transfer natural gas processing operations from the Casper Plant to another existing processing plant near Douglas, Wyoming (Douglas Plant). KN requests Commission authorization, in Docket No. CP95–113–000, to construct and operate the following facilities needed to transfer the processing operations:

- 43.9 miles of 16-inch-diameter pipeline loop (Casper-Douglas Pipeline Loop) in Natrona and Converse Counties, Wyoming; [2]
- 8.0 miles of new 16-inch-diameter pipeline (Douglas Spur) in Converse County, Wyoming; and
- 2,000 horsepower (hp) of new compression at KN's existing Guernsey Compressor Station in Platte County, Wyoming.

The general location of the project facilities and route maps are shown in appendix 1.[3]

Land Requirements for Construction

The Casper-Douglas Pipeline Loop would be installed within newly acquired, 100-foot-wide construction rights-of-way generally parallel to the right-of-way for an existing 12-inch pipeline. A 66-foot-wide permanent right-of-way centered on the new pipeline would be used for long-term maintenance activities. About 532 acres of land would be disturbed if all 100 feet of construction right-of-way along the pipeline route is used. The permanent right-of-way would consist of about 351 acres of land.

The Douglas Spur would be installed within newly acquired, 100-foot-wide construction rights-of-way. A 66-foot-wide permanent right-of-way centered on the new pipeline would be used for long-term maintenance activities. Two temporary staging areas, about 250 by 300 feet, one on each side of the river, would be required for the crossing of the North Platte River and associated wetlands. A total of about 100 acres of land would be disturbed if all 100 feet of construction right-of-way along the pipeline route is used. The permanent right-of-way would consist of about 64 acres of land.

Private roads/lanes and the existing rights-of-way would be used for access to the pipeline during construction and removal. These roads may require repair and upgrading to support increased traffic.

The additional 2,000-hp compressor unit would be installed at KN's existing Guernsey Compressor Station. The compressor unit would be placed on an existing foundation adjacent to the current compressor. No new land for construction will be required.

The EA Process

The National environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Public safety.
- Land use.
- Cultural resources.
- Air quality and noise.
- Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be

[1] KN Interstate Gas Transmission Company's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] A loop is a segment of pipeline that is installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the pipeline system at the location in which the loop is installed.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, Room 3104, 941 North Capitol Street, NE., Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified a number of issues that we think deserve attention, based on a preliminary review of the proposed facilities and the environmental information provided by KN. Keep in mind that this is a preliminary list. The list of issues may be added to, subtracted from, or changed based on your comments and our analysis. The currently identified issues are:

- The construction of new pipeline could affect seven separate wetlands.
- The project could cross habitat of the piping plover, least tern, bald eagle, whooping crane, peregrine falcon, black-footed ferret, pallid sturgeon (all federally listed endangered species), and the mountain plover (a category 2 candidate species).
- Construction of a 2,000-hp compressor at the Guernsey Compressor Station may increase ambient noise levels in the vicinity of the compressor station.
- About 2.5 miles of the pipeline are proposed to cross the Old Fort Fetterman Reservation, a historic site established in 1867.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426;
- Reference Docket No. CP95–113–000;
- Send a *copy* of your letter to: Mr. Bob Kopka, EA Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Room 7312, Washington, D.C. 20426; and
- Mail your comments so they will be received in Washington D.C. on or before April 7, 1995.

If you wish to receive a copy of the EA, you should request one from Mr. Kopka at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or an ''intervenor.'' Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. In certain cases, environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Mr. Bob Kopka, EA Project Manager, at (202) 208–0282.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5881 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

Yukon Pacific Company L.P.; Notice of Availability of the Final Environmental Impact Statement for the Yukon Pacific LNG Project

March 6, 1995

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has made available a final environmental impact statement (FEIS) on the construction and operation of the liquefied natural gas (LNG) liquefaction plant, LNG storage and marine loading facilities, and LNG tanker transport proposed in the above referenced docket.

The staff prepared the FEIS to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed action, with appropriate mitigating measures as recommended, including receipt of necessary permits and approvals, would have limited adverse environmental impact. The FEIS evaluates alternative to various components of the proposals.

Yukon Pacific Company L.P. (Yukon Pacific) is seeking approval of a specific site at Anderson Bay, Port Valdez, Alaska to export LNG to destinations in Japan, Korea, and Taiwan. The proposed action involves construction of:

- A 2.1 billion cubic feet per day LNG liquefaction plant.
- Four aboveground 800,000-barrel LNG storage tanks;
- A marine facility to load two tankers within a 12-hour period; and
- A cargo/personnel ferry docking facility.

In addition, Yukon Pacific proposes to operate a fleet of 15 LNG tankers, each having 125,000 cubic meters of cargo capacity. The fleet would make 275 trips per year. Construction of the project would take 8 years with a peak work force of nearly 4,000 workers in the fifth year.

The FEIS will be used in the regulatory decision-making process at the FERC. While the period for filing interventions in this case has expired, motions to intervene out-of-time can be filed with the FERC in accordance with the Commission's Rules of Practice and Procedures, 18 CFR 385.214(d). Further, anyone desiring to file a protest with the FERC should do so in accordance with 18 CFR 385.211.

The FEIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 941 North Capitol Street, NE., Room 3104, Washington, DC 20426, (202) 208–1371.

Copies of the FEIS have been mailed to Federal, state, and local agencies, public interest groups, libraries, newspapers, individuals who have requested the FEIS, and other parties to this proceeding.

Limited copies of the FEIS are available from:

Mr. Chris Zerby, Environmental Project Manger, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Room 7312, Washington, DC 20426, (202) 208–0111

Mr. Jerry Brossia, State Pipeline Coordinator, 411 West 4th Avenue, Suite #2, Anchorage, Alaska 99501, (907) 278–8594

Lois D. Cashell,

Secretary.

[FR Doc. 95–5882 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 2056–013, et al.]

Hydroelectric Applications [Northern States Power Co., et al.]; Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. Type of Application: Amendment of License.

b. Project No: 2056–013.

c. Date Filed: November 14, 1994.

d. Applicant: Northern States Power Company (NSPC).

e. Name of Project: St. Anthony Falls Project.

f. Location: On the Mississippi River, within the City of Minneapolis, Hennepin County, Minnesota.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Jack J. Schutz, P.E., Senior Environmental Engineer, Northern States Power Company, 414 Nicollet Mall, Minneapolis, MN 55401–1927, (612) 330–5621.

i. FERC Contact: Mohamad Fayyad, (202) 219–2665.

j. Comment Date: April 6, 1995.

k. Description of Amendment: NSPC proposes to delete an authorized redevelopment of a powerhouse at its Lower Dam development. The powerhouse was authorized by a Commission order amending license issued on November 14, 1990, with an installed capacity of 16 MW.[1] Since NSPC decided not to rebuild the powerhouse the entire Lower Dam development must be deleted from the license for the St. Anthony Falls Project; start of construction deadline for rebuilding the powerhouse was November 13, 1994.

l. This notice also consists of the following standard paragraphs: B, C2, and D2.

2 a. Type of Application: Amendment of License.

b. Project No.: P–472–014.

c. Date Filed: November 25, 1994.

d. Applicant: PacifiCorp.

e. Name of Project: Oneida.

f. Location: On the Bear River in Franklin County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact:

Stanley A. deSousa, Director of Hydro Resources, PacifiCorp, 920 SW Sixth Avenue, Suite 610, Portland, Oregon 97204, (503) 464–5343

Thomas H. Nelson, Stoel Rives Boley Jones & Grey, 900 SW Fifth Avenue, Suite 2300, Portland, Oregon 97204–1268, (503) 294–9281

[1] 53 FERC ¶ 62,155 (1990).

i. FERC Contact: Regina Saizan, (202) 219–2673.

j. Comment Date: April 6, 1995.

k. Description of Project: The licensee requests that its license be amended to extend the expiration date of the license from June 30, 2000 to October 1, 2001.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

3 a. Type of Application: Minor License.

b. Project No.: P–11519–000.

c. Date Filed: February 10, 1995.

d. Applicant: Wisconsin Edison Corporation.

e. Name of Project: Stoughton Hydro Project.

f. Location: On the Yahara River in Dane County, near Dunkirk, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Peter H. Burno, 1343 Veek Road, Stoughton, WI 53589, (608) 873–8656.

i. FERC Contact: Ed Lee (202) 219–2809.

j. Comment Date: 60 days from the filing date in paragraph c.

k. Description of Project: The existing project would consists of: (1) An existing dam and intake structure; (2) an existing 82-acre reservoir; (3) a powerhouse containing two generating units for a total installed capacity of 192 Kw; (4) a 300-foot-long transmission line; and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 450 Mwh for the project. All lands and project works are owned by the City of Stoughton, Wisconsin.

l. With this notice, we are initiating consultation with the Wisconsin State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

4 a. Type of Application: Minor License.

b. Project No.: P–11520–000.

c. Date Filed: February 10, 1995.

d. Applicant: Wisconsin Edison Corporation.

e. Name of Project: Stebbinsville Hydro Project.

f. Location: On the Yahara River in Rock County, near Porter, Wisconsin.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Peter H. Burno, 1343 Veek Road, Stoughton, WI 53589, (608) 873–8656.

i. FERC Contact: Ed Lee (202) 219–2809.

j. Comment Date: 60 days from the filing date in paragraph c.

k. Description of Project: The existing project would consists of: (1) An existing dam and intake structure; (2) an existing 80-acre reservoir; (3) a powerhouse containing a single 375-kW generating unit; (4) a 40-foot-long transmission line; and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 1,500 MWh for the project. All lands and project works are owned by the applicant.

l. With this notice, we are initiating consultation with the Wisconsin State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

5 a. Type of Application: Major Relicense.

b. Project No.: 2705–003.

c. Date filed: September 30, 1992.

d. Applicant: Seattle City Light.

e. Name of Project: Newhalem Creek.

f. Location: On Newhalem Creek in Whatcom County, Washington, wholly within the Ross Lake National Recreation Area.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Gary Zarker, Superintendent, Seattle City Light, 1015 Third Avenue, Seattle, WA 98104–1198, (206) 684–3200.

i. FERC Contact: James Hunter at (202) 219–2839.

j. Deadline Date: See attached paragraph D10. The Commission's due date for filing a final amendment of this application is 60 days from issuance of this notice.

k. Status of Environmental Analysis: The application is ready for environmental analysis at this time—see attached paragraph D10.

l. Description of Project: The existing project consists of: (1) A 45-foot-long, 10-foot-high concrete overflow dam, crest elevation 1,012 feet, across Newhalem Creek with a combination sluiceway and intake structure; (2) water conveyance facilities including a 5-foot-square, 54.5-foot-long, vertical rock shaft, a 6-foot by 7-foot, 2,452-foot-long rock tunnel, and a 33-inch-diameter, 925-foot-long penstock; (3) a 30-foot-wide, 56-foot-long, wood-framed powerhouse containing a generating unit with an installed capacity of 2.3 MW; (4) two timber flumes that discharge into a 350-foot-long tailrace returning project flows to the Skagit River; (5) a 4,387-foot-long, 7.2-kV transmission line tying into the Gorge powerhouse of Project No. 553; (6) about 2.5 miles of access roads to the diversion and powerhouse; and (7) appurtenant facilities.

m. Purpose of Project: The average annual generation of the Newhalem Creek project is 18 GWh. Power generated at the project is delivered to customers within the applicant's service area.

n. This notice also consists of the following standard paragraph: D10.

o. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., Room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Seattle City Light's offices at 1015 Third Avenue, Seattle, Washington.

6 a. Type of Application: Exemption 5 MW or less.

b. Project No.: 11316–002.

c. Date filed: January 31, 1995.

d. Applicant: Iliamna-Newhalen-Nondalton Electric Cooperative, Inc.

e. Name of Project: Tazimina.

f. Location: On the Tazimina River, near Iliamna, Newhalen, and Nondalton, Section 24, Range 32 West, Township 3 South, Seward Meridian, in Southcentral Alaska.

g. Filed Pursuant to: Section 2407 of the Energy Policy Act of 1992 and the Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Brent Petrie, General Manager, INNEC, P.O. Box 210, Iliamna, Alaska 99606, (907) 571–1259.

i. FERC Contact: Héctor M. Pérez at (202) 219–2843.

j. Comment Date: May 2, 1995.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached paragraph D5.

l. The proposed project would consist of: (1) A 2-foot-high and 100-foot-long channel control sill consisting of precast 4-foot-long concrete blocks with a trapezoidal section; (2) an intake structure about 50 feet downstream and on the opposite side of the concrete sill; (3) a 5-foot-diameter, 430-foot-long welded steel penstock; (4) a powerhouse with two 350-Kw units; (5) a 6.7-mile-long transmission line; and (6) other appurtenances.

m. This notice also consists standard paragraphs B1 and D5.

n. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., Room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the address shown in item h above.

Standard Paragraphs

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C2. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. Any of these documents must be filed by providing the original and the number of copies pRovided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. A copy of a notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's must also be sent to the Applicant's representatives.

D5. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (May 2, 1995 for Project No. 11316–002). All reply comments must be filed with the Commission within 105 days from the

date of this notice. (June 16, 1995 for Project No. 11316–002).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (May 2, 1995 for Project No. 2705–003). All reply comments must be filed with the Commission within 105 days from the date of this notice (June 16, 1995 for Project No. 2705–003).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: March 6, 1995, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 95–5967 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–P

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of November 14 Through November 18, 1994

During the week of November 14 through November 18, 1994, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Brenda Wolfenbarger, 11/16/94, VFA–0007

Brenda Wolfenbarger (Wolfenbarger) filed an Appeal under the Freedom of Information Act of a September 30, 1994 Determination Letter issued to her by the Department of Energy's (DOE's) Oak Ridge Operations Office (Oak Ridge). Wolfenbarger had requested all medical and personnel records held by Oak Ridge concerning her father, who had worked for a contractor at Oak Ridge during the 1940's. On Appeal, Wolfenbarger contended that the DOE's search for responsive documents was inadequate. After considering her Appeal, the DOE found that Oak Ridge's search for responsive documents was adequate and therefore denied her Appeal.

Robert Heitmann, 11/16/94, VFA–0005

Robert Heitmann filed an Appeal from a denial by the FOI and Privacy Acts Branch, Reference and Information Management Division, at the Department of Energy Headquarters (DOEHQ) of a Request for Information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that one office had not adequately searched for responsive documents, and that the records of the searches of two other offices were contradictory. The matter was therefore remanded for a new search of these three offices.

Requests for Exception

Leonard Wall Oil Co., 11/18/94, LEE–0155

Leonard Wall Oil Company (Leonard Wall) filed an Application for Exception requesting permanent relief from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the ''Resellers'/Retailers' Monthly Petroleum Product Sales Report.'' In considering this request, the DOE found that Leonard Wall was not experiencing a serious hardship, gross inequity or an unfair distribution of burdens as a result of the requirement that it file Form EIA–782B. On September 26, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. No Notice of Objection to the Proposed Decision and Order was filed within the prescribed time period. Therefore, the DOE issued the Proposed Decision and Order in final form, denying Leonard Wall's Application for Exception.

Shuster Oil Co., Inc., 11/17/94, LEE–0142

Shuster Oil Company, Inc., filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA–782B, the ''Resellers'/Retailers' Monthly Petroleum Product Sales Report.'' In considering this request, the DOE found that the firm was not suffering a gross inequity or serious hardship. On September 13, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. No Notice of Objection to the Proposed Decision and Order was filed within the prescribed time period. Therefore, the DOE issued the Proposed Decision and Order in final form, denying Shuster's Application for Exception.

Tommy Carr's Tire and Automotive Service Center, Inc., 11/18/94, LEE–0151

Tommy Carr's Tire and Automotive Service Center, Inc. (Carr) filed an Application for Exception from the provisions of the Energy Information Administration (EIA) reporting requirements in which the firm sought relief from filing Form EIA–782B, entitled ''Resellers'/Retailers' Monthly Petroleum Product Sales Report.'' The DOE determined that Carr should be granted exception relief for a period of three years because it was experiencing a gross inequity. The recent destruction of the business by fire as well as pressing financial obligations in Mr. Carr's personal life, i.e., the facial operations his newborn baby has received, made the filing of Form EIA–782B unusually burdensome. Accordingly, exception relief was granted.

Supplemental Order

Ronald A. Sorri, 11/18/94, LWX–0014

This Decision supplements an Initial Agency Decision, dated December 16, 1993, issued by an OHA Hearing Officer in a case involving a ''Whistleblower'' complaint filed by Ronald A. Sorri (Sorri) under the DOE Contractor Employee Protection Program, 10 CFR Part 708. In the December 16 Decision, the Hearing Officer determined that Sorri should be awarded backpay lost as a result of the reprisals taken against him, as well as all costs and expenses reasonably incurred by him in bringing his complaint.

After submitting a full accounting of his hourly charges for attorney's fees together with costs, expenses, and expert witness fees incurred in representing Sorri, Thad M. Guyer (Guyer), attorney for Complainant, filed a Motion for attorney's fees and costs on September 26, 1994. In considering the motion, the Hearing Officer found that Guyer's request for attorney's fees, legal assistant costs, and litigation costs and expenses was reasonable and should be approved. Accordingly, Guyer's Motion for attorney's fees and costs was granted. The Hearing Officer awarded Guyer $25,356.43 in attorney's fees and costs.

Refund Applications

Hay & Forage Industries, 11/16/94, RF272–92459

The DOE issued a Decision and Order concerning one Application for Refund in the Subpart V crude oil overcharge refund proceeding. The refund application was filed by Hay & Forage Industries. The DOE determined that Hay & Forage Industries was not entitled to a refund since a parent company had filed a Surface Transporters Escrow Settlement Claim Form and Waiver. In this filing, a parent company of Hay & Forage Industries requested a Stripper Well refund from the Surface Transporters escrow, thereby waiving Hay & Forage Industries' right to a Subpart V crude oil refund. Accordingly, the DOE denied Hay & Forage Industries' Application for Refund.

Nekoosa Papers, Inc., et al., 11/14/94, RC272–257, et al.

The DOE issued a Decision and Order concerning Applications for Refund submitted in the Subpart V crude oil refund proceeding by four affiliates of Great Northern Nekoosa Corporation: Nekoosa Papers, Inc., Bibler Bros., Inc., Great Northern Paper Company, and Great Southern Paper Company. The DOE previously granted crude oil refunds to these four applicants. The four applicants, however, were subsequently found to have been affiliated with both Chattahoochee Industrial Railroad (Chattahoochee) and Great Southern Plywood (Plywood) on August 7, 1986. Chattahoochee had filed a refund claim in the Rail and Water Transporters Stripper Well proceeding, and Plywood had filed a refund claim in the Surface Transporters Stripper Well proceeding. In doing so, Chattahoochee and Plywood had executed waivers and releases waiving their rights and the rights of their affiliates on August 7, 1986, to receive crude oil overcharge refunds. Accordingly, this Decision rescinded the original refunds granted to the four applicants.

Scalzo Utilities, Inc., 11/18/94, RF272–92378

The DOE issued a Decision and Order concerning the Application for Refund of a claimant in the Subpart V crude oil overcharge refund proceeding. The Application for Refund was based on purchases of kerosene and residual fuel the applicant purchased and resold during the crude oil price control refund period. The DOE determined that the applicant had filed to show that it has been unable to pass on the crude oil overcharges in its sales of kerosene and residual fuel. Therefore, the DOE concluded that the claimant was not injured by any of the overcharges associated with the gallons that it purchased. Accordingly, the DOE denied the Application for Refund.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Anaheim Union High School District et al	RF272–79602	11/14/94
Arundel Corporation	RF272–85	11/17/94
Atlantic Richfield Company/Ray Lumber Co. et al	RF304–14624	11/17/94
Atlantic Richfield Company/Searles Arco et al	RF304–14720	11/18/94
Chambersburg Area School District et al	RF272–95574	11/18/94
Clark Oil & Refining Corp./Commonwealth Edison Company	RF342–325	11/17/94
D.L. Stowe Trucking et al	RF272–91020	11/17/94
E.D.G. Inc./Smith Oil Company, Inc	RR311–2	11/18/94
Gulf Oil Corporation/Winston C. Bresett	RR300–258	11/16/94
Macke Laundry Service et al	RF272–97127	11/17/94
Newark Housing Authority	RF272–68961	11/18/94
Ralston Purina Company et al	RC272–261	11/17/94
Stanley G. Flagg & Co. et al	RF272–92009	11/18/94
Texaco Inc./Art and Speck's Texaco et al	RF321–17165	11/18/94

Texaco Inc./Hershey Foods Corporation	RF321–17106	11/16/94
Texaco Inc./Richmond Texaco et al	RF321–20188	11/14/94
Texaco Inc./Rodriguez Service Station et al	RF321–20852	11/18/94
Texaco Inc./Shorts Oil Co., Inc	RF321–20443	11/14/94
T.B. Smith Co., Inc	RF321–20651	
Texaco Inc. V&F Svara, Inc	RF 321–20946	11/18/94
V&F Svara, Inc	RF321–20951	
Texaco Inc./Windsor Texaco	RF321–16854	11/17/94
Delsea Texaco Service Station	RF321–16855	
Burlington Texaco	RF321–16856	
Woodbury Service Station	RF321–16857	

Dismissals

The following submissions were dismissed:

Name	Case No.
Cass County, MN	RF272–86744
Edmonson County Trucking Co	RF300–21532
General Motors Saginaw Division	RF272–93270
Homer Tesoro Service	LEE–0165
Jessee Rogers Sand & Gravel	RF272–95291
L.P. Shanks Company	RF272–94627
Mt. Sinai School of Medicine	RF321–20801
Philip Morris Management Corp	RF272–93294
Rodriguez Texaco	RF321–20642

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: February 28, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–6013 Filed 3–9–95; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders During the Week of January 9 Through January 13, 1995

During the week of January 9 through January 13, 1995, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

Gulf Oil Corporation/Donati's Auto Repair, 1/9/95, RF300–15980

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by the owner of Donati's Auto Repair, a retailer of Gulf petroleum products. The applicant requested reconsideration of an Application for Refund that he filed in a previous Gulf refund proceeding. The DOE had dismissed that application. The applicant filed his request nearly five years after his previous Application was dismissed, and did not provide any reason as to why his claim should be reconsidered. In addition, the DOE had disbursed all of the remaining funds in the proceeding's escrow account pursuant to the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986. Accordingly, the DOE determined that it would not be appropriate to reopen the earlier proceeding and denied the Application.

Shell Oil Company/Briggs Transportation Company; Texaco Inc./Briggs Transportation Company 1/11/95, RF315–10286, RF321–21054

The DOE issued a Supplemental Order rescinding refunds granted to Brigg Transporation Company (Briggs) in the Shell Oil Company and Texaco Inc. special refund proceedings. Prior to the filing of Briggs' refund applications, Briggs had filed for bankruptcy. The Trustee in Bankruptcy authorized a private filing service, LK, Inc. (LK), to file the two applications. Pursuant to the Trustee's request, the DOE ordered each refund check to be made payable to Briggs and mailed to LK. When LK received each check, it deposited the check in its account, retained its commission and sent the remainder to the Trustee. The Trustee later informed the DOE that because the Bankruptcy Court found the proposed distribution to Briggs' creditors to be inefficient, the refunds should be returned to the DOE. The Trustee also enclosed Briggs' share of the two refunds. Accordingly, the DOE rescinded the refunds issued to Briggs and ordered the two checks received from the Trustee deposited in the Texaco Inc. and Shell Oil Company escrow accounts. Further, it ordered LK to repay its commissions, but did not assess interest on the commissions for the period of time during which LK had use of these funds.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Burholme Fuel Oil Co. et al	RF304–13599	01/12/95
Atlantic Richfield Company/Kim's Arco	RF304–15466	01/12/95
Butte Public Schools et al	RF272–79708	01/11/95
Campbell's Auto Express et al	RF272–97029	01/11/95
Carlton Towers et al	RF272–77813	01/09/95
Chickasaw Cnty Secondary Road Department	RF272–96151	01/09/95

Chickasaw Cnty Secondary Road Department	RF272–97101	
City of Venice	RF272–94410	01/11/95
Lexington Electric Systems	RF272–94456	
KSI Trucking	RA272–63	01/12/95
Metropolitan Petroleum & Fuel/Abelardo Obregon	RF349–20	01/09/95
Orleans Trans Service et al	RF272–94966	01/11/95

Dismissals The following submissions were dismissed:

Name	Case No.
Altamont Community Unit School District 10	RF272–79620
Avon Products, Inc	RF272–86689
Browning & Herdrich Oil Corp	RF321–20539
Citizens Gas & Coke Utility	RF321–20426
Consumer and Professional Products	RF321–20785
Deep Creek Texaco	RF321–7714
Del's Texaco Service	RF321–16298
First and Main Texaco	RF321–20893
FMC Corporation	RF321–20777
Fort Findlay Texaco	RF321–9192
Freeway Texaco	RF321–20894
Georgia Pacific	RF321–20786
Globe Union/Johnson Controls	RF321–20795
Grow Group, Inc	RF321–20784
Hale Area Schools	RF272–79622
Hill's Texaco Service Center	RF321–8055
Johnson County School District	RF272–78720
Keller Industries	RF321–20803
Kelseyville Unified	RF272–79726
Lookout Heights Texaco	RF321–10444
McKenna & Cuneo	VFA–0016
New ULM-Hanska School District	RF272–79720
New York City Housing Authority	RF321–20799
Nick Montallegro	RF304–14735
North Muskegon Public Schools	RF272–79623
Oil Chem, Inc	RF321–20621
Perryville School District	RF272–78938
Pleasant Point Resort	RF321–12933
Pyramid Supply, Inc	RF321–12185
Riggs Oil Co., Inc	RF321–20448
S.C. Loveland Co., Inc	RF272–89221
Savannah River Operations Office	VSO–0010
Scotus Central Catholic Secondary School	RF272–78187
Spearfish Texaco	RF321–530
Third and Main Texaco	RF321–20923
Top Deck Texaco	RF321–20924
Tri-City Gas, Inc	RF272–89756
Valley Rentals/Tri Rentals	RF304–14742
Walker's Texaco	RF321–19993
Williamsburg Community School District	RF272–79757

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: February 28, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–6014 Filed 3–9–95; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders During the Week of February 6 Through February 10, 1995

During the week of February 6 through February 10, 1995 the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Personnel Security Hearing

Albuquerque Operations Office, 2/9/95, VSO–0005

An Office of Hearings and Appeals Hearing Officer issued an opinion concerning the continued eligibility of an individual for access authorization under 10 C.F.R. Part 710, ''Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.'' After considering the record in view of the standards set forth in Part 710, the Hearing Officer found that the DOE Operations Office had presented sufficient derogatory information concerning the individual's abuse of

alcohol, her use of illegal drugs, and her false statements to the DOE concerning her illegal drug use to support its revocation of her access authorization. The Hearing Officer also found that the individual failed to present sufficient evidence of rehabilitation or reformation to mitigate this derogatory information, and that it would be clearly inappropriate to extend the proceeding for a year or more to enable the individual to establish rehabilitation. Finally, the Hearing Officer found that he lacked authority to review the determination of the Office of Security Affairs to deny the individual admission to the Employee Assistance Program Referral Option, and that Executive Order 12564 clearly did not require the DOE to maintain an individual's access authorization pending their completion of a drug rehabilitation program. Accordingly, the Hearing Officer found that the individual's access authorization should not be restored.

Refund applications

Coca-Cola Co. of Los Angeles, et al., 2/8/95, RC272–268, et al.

The DOE issued a Decision and Order concerning eight Applications for Refund submitted in the Subpart V crude oil refund proceeding by former affiliates of Beatrice Co., Inc.: Coca-Cola Co. of Los Angeles, Beatrice Cheese, Americold (MA), Tropicana Products, Inc., Swift Eckrich, Inc., Americold Corp. (OR), Ozarka Spring Co., and Great Bear Spring Co. The OHA previously granted crude oil refunds to these eight Applicants. We have subsequently found, however, that they were affiliated with Arrowhead Drinking Water Company (Arrowhead) on August 7, 1986. Arrowhead had filed in the Surface Transporters Stripper Well proceeding. In doing so, Arrowhead had executed a waiver and release waiving its right and the right of its affiliates on August 7, 1986, to receive crude oil overcharge refunds from OHA under Subpart V. Accordingly, this Decision rescinded the refunds granted to the eight applicants.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Arrow Lakes Dairy	RC272–278	02/08/95
Asphalt Supply & Service, Inc., et al	RF272–94934	02/08/95
Atlantic Richfield Company/Mack Amini Arco et al	RF304–14635	02/06/95
Atlantic Richfield Company/Mystic Fuel, Inc	RF304–12953	02/06/95
Bergen County, et al	RF272–86500	02/06/95
Borden, Inc	RC272–279	02/08/95
City of Norfolk, et al	RF272–95583	02/06/95
Contractual Carriers, Inc., et al	RF272–96600	02/06/95
John Curry, Inc., et al	RF272–97031	02/06/95
Texaco Inc./Paramount Texaco Service Quick-N-Split	RF321–19712	

Dismissals

The following submissions were dismissed:

Name	Case No.
Bish Arco	RF304–15357
Borough of Hightstown	RF272–84730
Charlie's Texaco	RF321–19753
Chicago Milwaukee Corp	RF321–19937
Chicago, Milwaukee, St. Paul & Pacific Railroad	RF321–20783
City of Baker	RF272–84894
City of Belton	RF272–84711
City of Chicopee	RF272–84841
City of Conneaut	RF272–84865
City of Girard	RF272–84908
City of Gretna	RF272–84829
City of Jeffersonville	RF272–84677
City of Jonesboro	RF272–84969
City of Lake Alfred	RF272–84815
City of Lawrenceville	RF272–96562
City of Live oak	RF272–84887
City of Logan	RF272–84752
City of Marksville	RF272–84836
City of McAlester	RF272–84890
City of Meridian	RF272–84950
City of Oregon	RF272–84770
City of Osage City	RF272–84740
City of Sleepy Eye	RF272–84737
City of Springfield	RF272–84834
Coldwater Regional Mental Health Center	RF272–88897
County of Ingham, MI	RF272–86274
County of Schuylkill	RF272–84986
Darcelle Jae Nichols Thrall	VFA–0017
Hannaford Oil Co	RF300–21303
Holmes County School District	RF272–84897
Housing Authority of Newark	RF321–20173
Mansfield I.S.D	RF272–96552

Name	Case No.
Manuel's Arco	RF304–14991
Manuel's Arco	RF304–14992
Mike's Texaco	RF321–20578
Palmer Paving Corporation	RF321–20452
Rocky Creek Texaco	RF321–20495
Rodriguez Texaco	RF321–19752
Skip's Arco	RF304–9107
Town of Bethany	RF272–84761
Town of Bristol	RF272–84693
Town of Canton	RF272–84628
Town of Chelmsford	RF272–96576
Town of Garner	RF272–84886
Town of La Grange	RF272–84970
Town of Mount Pleasant	RF272–84673
Town of St. Johnsbury	RF272–84785
Town of Winchendon	RF272–84662
Town of Winchester	RF272–84669
Village of Ponton Beach	RF272–84968
Village of Yellow Springs	RF272–84715

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: February 28, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–6015 Filed 3–9–95; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders During the Week of January 16 Through January 20, 1995

During the week of January 16 through January 20, 1995, the decisions and orders listed below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Bardahl Manufacturing Corp	RA272–64	01/20/95
City of Hendersonville	RF272–94604	01/20/95
Town of Brookline	RF272–94648	
Cook County Government	RF272–94607	01/19/95
Gulf Oil Corporation/Glasscock Trucking Co	RF300–21817	01/20/95
Aline Manire & Mary E. Young Guinn	RF300–21818	
Emery Investments, Inc	RF300–21819	
Gulf Oil Corporation/Greyhound Rent-a-Car et al	RF300–13998	01/19/95
Gulf Oil Corporation/Wham Petroleum Corportion	RF300–19785	01/20/95
Indiana Bell Telephone et al	RF272–93731	01/20/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Al's Texaco	RF321–20526
Altamont Comm Unit Sch Dist 10.	RF272–79620
Antwerp Local School District.	RF272–79958
Beverly Park Texaco	RF321–20869
City of Attalla	RF272–84551
City of Cabot	RF272–84330
City of Clyde	RF272–85901
City of Lynwood	RF272–84595
City of Mount Rainier	RF272–84511
City of Mount Vernon	RF272–84575
City of Oakdale	RF272–84516
City of Taylor	RF272–85947
City of West Columbia	RF272–84394
Dallam County	RF272–85526
Darling of Delaware Co., Inc	RF272–94433
Decorative Specialities, Intl	RF272–95079
Durham Schools	RF272–79966
Eby's Inc	RF321–20889
Goshen County School District #1.	RF272–82545
Hale Area Schools	RF272–79622
Harrington Park School Dist	RF272–79959
Hatch Valley School District	RF272–79844
Headquarters	VSO–0009
John's Texaco Station	RF321–20906
Kelseyville Unified	RF272–79726
Keystone School District	RF272–79792
L'Anse Creuse Public Schools.	RF272–79873
Laraway CC School District 70C.	RF272–84383
Lisbon Schools	RF272–79965
Loy's Texaco	RF321–20880
Magnet Cove School District	RF272–79767
McKenna & Cuneo	VFA–0016
Meridian Texaco	RF321–20401
Money Oil Co	RF304–15069
Moniteau County School District.	RF272–84589
New Knoxville Local School District.	RF272–79991
New Ulm-Hanska School District.	RF272–79720
North Muskegon Public Schools.	RF272–79623
Orange County Highway	RF272–96209
Orlando Utilities Commission	RF321–20809
Passaic County Regional High School District.	RF272–79997
Pinter Brothers Co	RF272–89150
Polk County Environmental Services.	RF272–97091
Rantoul Township HS District.	RF272–79892

Name	Case No.
Rocky Flats	VSO–0007
Salem School District 43–3	RF272–82403
Scarborough Schools	RF272–79919
Shore Oil Company, Inc	HRO–0077
South Central Local School District.	RF272–84133
South Williamsport A School District.	RF272–79933
Totawa School District	RF272–79927
Town of Bellingham	RF272–82667
Town of Coventry	RF272–84530
Town of Lutcher	RF272–84573
Town of Nahant	RF272–85365
Town of Thomaston	RF272–84414
Valley Local School District	RF272–79936
Village of Babylon	RF272–84388
Village of Fox River Grove	RF272–82889
Village of New Richmond	RF272–85785
Village of Wauconda	RF272–84526
West Jefferson Hills School District.	RF272–82580
Williamsburg Comm Sch Dist.	RF272–79757

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: February 28, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–6016 Filed 3–9–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5168–5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before April 10, 1995.

FOR FURTHER INFORMATION CONTACT: For further information or a copy call Sandy Farmer at EPA, (202) 260–2740, please refer to EPA ICR # 1741.01.

SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxics

Title: Correction of Misreported Chemical Substances on the Toxic Substances Control Act (TSCA) Control Substances Inventory (EPA ICR No. 1741.01). This is a new collection.

Abstract: Members of the chemical industry, who misreported chemical substances on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory, may submit corrections on Form C. The information on Form C allows OPPT to establish a correct chemical identity which accurately reflects the substance the submitter manufacturers.

Burden Statement: Burden for this collection of information is estimated to average 1 hour per respondent for reporting. There is no recordkeeping requirement. This estimate includes the time needed to review instructions, gather and submit the information, and report the information.

Respondents: Manufacturers and importers of chemical substances.

Estimated number of respondents: 200 respondents.

Estimated number of responses per respondents: 1.

Estimated total annual burden on respondents: 200 hours.

Frequency of collection: As need arises.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, EPA ICR # 1741.01, U.S. Environmental Protection Agency, Information Policy Branch (2136), 401 M Street, SW., Washington, DC 20460.

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW.,Washington, DC 20503.

Dated: March 3, 1995.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 95–5989 Filed 3–9–95; 8:45 am]

BILLING CODE 6560–50–F

[ER–FRL–4720–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed February 28, 1995 Through March 03, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950066, Final EIS, FHW, CA, CA–41 Route Adoption of Alignment Project, between El Paso Avenue and CA–145, Funding, Right-of-Way Acquisition and COE Section 404 Permit, Fresno and Madera Counties, CA, Due: April 10, 1995, Contact: Dennis A. Scoville (916) 498–5034.

EIS No. 950067, Draft Supplement, FHW, CA, Devil's Slide Bypass Improvement, CA–1 from Half Moon Bay Airport to Linda Mar Boulevard, Preferred Alternative Estimated Future Project-Generated Noise Study, Funding, Pacifica and San Mateo Counties, CA, Due: April 24, 1995, Contact: Contact: John R. Schultz (916) 498–5041.

EIS No. 950068, Draft EIS, BLM, CA, NV, Alturas 345 kilovolt (kv) Electric Power Transmission Line Project, Construction, Operation and Maintenance, Right-of-Way Grant Approval, Special-Use-Permit and COE Section 404 Permit, Susanville District, Modoc, Lassen and Sierra Counties, CA and Washoe County, NV, Due: May 03, 1995, Contact: Peter Humm (916) 257–0456.

EIS No. 950069, Draft EIS, BLM, WY, Texaco's Stagecoach Draw Unit Natural Gas Field Development Project, Implementation, Application for Permit to Drill, Right-of-Way Grant, Temporary Use-Permit and COE Section 404 Permit, Farson, Sweetwater County, WY, Due: April 25, 1995, Contact: Bill McMahan (307) 382–5350.

EIS No. 950070, Final EIS, FRC, AK, Yukon Pacific Liquefied Natural Gas (LNG) Liquefaction Plant Construction and Operation, Approval, Anderson Bay, Port Valdez, AK, Due: April 10, 1995, Contact: Chris Zerby (202) 208–0111.

EIS No. 950071, Draft EIS, FTA, CA, Mid-Coast Corridor Mass Transit Improvement Project, Funding, San Diego County, CA, Due: May 08, 1995, Contact: Robert Hom (415) 744–3116.

EIS No. 950072, Final EIS, VAD, HI, Veterans Affairs Medical and Regional Office Center Relocation to Tripler Army Medical Center, Construction and Renovation, Approval and NPDES Permit, Oahu, HI, Due: April 10, 1995, Contact: Eugene Keller (202) 233–2463.

EIS No. 950073, Draft EIS, BLM, AZ, Grand Canyon National Park General Management Plan, Implementation, Coconino and Mohave Counties, AZ, Due: April 24, 1995, Contact: Larry L. Norris (303) 969–2267.

Amended Notices

EIS No. 940501, Draft EIS, AFS, ID, Stibnite Gold Mine Expansion Project, Construction and Operation, Plan of Operation Approval, NPDES Permit and COE Section 404 Permit, Payette National Forest, Krassel Ranger District, Valley County, ID, Due: February 28, 1995, Contact: Jane Wurster (206) 634–0614.

Published FR 12–16–94—Officially Withdrawn by Preparing Agency.

EIS No. 950041, Draft EIS, SFW, NV, Desert Tortoises (Gopherus Agassizii) Habitat, Issuance of Permit to Allow Incidental Take, Federal Land and Non-Federal Land, Clark County, NV, Due: April 11, 1995, Contact: Sherry Barrett (702) 784–5227.

Published FR—02–10–95 Due Date Correction

Dated: March 7, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–5998 Filed 3–9–95; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–4721–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 6, 1995 Through February 10, 1995 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1994 (59 FR 16807).

Draft EISs

ERP No. D–AFS–K65166–CA Rating EO2, Cottonwood Fire Restoration Project, Implementation, Tahoe National Forest, Sierraville Ranger District, Sierra County, CA.

Summary: EPA expressed environmental objections over the potential adverse impacts to soil productivity, hydrology, and water quality from the proposed extensive use of ground-based logging systems, the associated road creation, and proposed harvesting within the stream management zones (SMZs). EPA suggested modifications to the preferred alternative which would reduce the use of ground-based logging systems in the most damaged or vulnerable watersheds, minimize entrance into the sensitive SMZ areas, and implement riparian rehabilitation activities and road obliterations as soon as possible.

ERP No. D–COE–E32193–GA Rating EC2, Savannah Harbor Navigation Project, Operation and Maintenance, Long Term Management Strategy Study, Chatham County, GA and Jasper County, SC.

Summary: EPA expressed environmental concerns over the long-term environmental consequences of implementation of the management plan. EPA requested additional information to more precisely define the uncertainties associated with the proposed operational changes.

ERP No. D–FRC–K02023–00 Rating EC2, Tuscarora Natural Gas Pipeline Project, Construction and Operation, Right-of-Way Grant, Special-Use-Permit, NPDES Permit and COE Section 404 Permit, Lassen County, CA; Washoe and Storey Counties, NV and Klamath County, OR.

Summary: EPA expressed environmental concerns over the proposed project, and requested additional information on impacts to air quality, wetlands, and cultural resources.

ERP No. D–IBR–K39037–CA Rating EC2, Cachuma Water Supply Project, Implementation, Long-term Contract Renewal, Santa Ynez Valley, Bradbury Dam, Santa Barbara, CA.

Summary: EPA commented that the draft EIS present a good examination of a wide range of alternative, but also expressed concern that more information was needed regarding water conservation, groundwater injections and socio-economic impacts.

ERP No. D–NPS–K60100–AZ Rating EC2, Programmatic EIS—Juan Bautista de Anza National Historic Trail Comprehensive Management Plan, Implementation, several counties, AZ and CA.

Summary: EPA expressed environmental concerns and requested that the final EIS include a ''no action'' alternative analysis, a conformity determination, analysis of potential trail carrying capacity, and address issues related to environmental justice, threatened and endangered species and wetlands.

ERP No. D–NRC–K01008–00 Rating EO2, Crownpoint Uranium Solution Mining Project, Construction and Operation, Leasing and Licensing, McKinley County, NM.

Summary: EPA expressed environmental objections to the proposed project based on its proximity to domestic supply wells and residences and insufficient hydrogeologic modelling and field testing to ensure a completely closed system. Additional information is needed in the Final Environmental Impact Statement (FEIS) regarding the results of hydrogeologic modelling and field tests, including the potential for, and environmental impacts of, contaminated groundwater migrating off-site as a results of injection activities; aquifer restoration; and effects of drawdown of supply wells for the City of Crownpoint. The final EIS should also include additional information on permitting, spill response, management of sludge and process wastes, and Radionuclude National Emissions Standards for Hazardous Air Pollutants.

ERP No. DS–FAA–C51013–NJ Rating EC2, Expanded East Coast Plan, Changes in Aircraft Flight Patterns over the State of New Jersey, Updated Information, Implementation, NJ.

Summary: EPA continued to have environmental concerns about the noise impacts of the proposed project. Additional information is needed to address the ''conflict points'' that were the basis for rejecting the Ocean Routing Proposal, to characterize noise levels in specific towns, and to justify the use of an unverified noise model.

Dated: March 7, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–5997 Filed 3–9–95; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Transfer Agent Registration and Amendment Form.

Form Number: Form TA–1.

OMB Number: 3064–0026.

Expiration Date of OMB Clearance: November 30, 1996.

Frequency of Response: On occasion.

Respondents: Insured nonmember banks wishing to register with the FDIC as transfer agents.

Number of Respondents: 37.

Number of Responses Per Respondent: 1.

Total Annual Responses: 37.

Average Number of Hours Per Response: 0.52.

Total Annual Burden Hours: 19.25.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0026, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before May 9, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Section 17A(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q) requires a bank to register with the appropriate federal regulator prior to performing any transfer agent function. Under FDIC regulation 12 CFR 341, an insured nonmember bank uses Form TA–1 to register with the FDIC.

Dated: March 6, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 95–5831 Filed 3–9–95; 8:45 am]

BILLING CODE 6714–01–M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or method of collection.

TItle: Unsafe and Unsound Practices—Extension of Credit to Executive Officers.

Form Number: N/A.

OMB Number: 3064–0108.

Expiration Date of OMB Clearance: May 31, 1995.

Frequency of Response: On occasion.

Respondents: Executive officers of insured nonmember banks.

Number of Respondents: 4,000.

Annual Hours Per Recordkeeper: 2.0.

Total Recordkeeping Hours: 8,000.

OMB Reviewer: Milo Sunderhauf, (202) 395–7316, Office of Management and Budget, Paperwork Reduction Project (3064–0108), Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted before April 10, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Executive officers of insured nonmember banks must file a report with their bank's Board of Directors within ten days of incurring any indebtedness to any other bank in an amount in excess of the amount the insured nonmember bank could lend to the officer.

Dated: March 6, 1995.

Federal Deposit Insurance Corporation.

Robeft E. Feldman,

Acting Executive Secretary.

[FR Doc. 95–5942 Filed 3–9–95; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA–1044–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California, (FEMA–1044–DR), dated January 10, 1995, and related determinations.

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California dated January 10, 1995, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 10, 1995:

Kings County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–5975 Filed 3–9–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Cass Commercial Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound

banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than March 24, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Cass Commercial Corporation, St. Louis, Missouri; to acquire Cass Information Systems, Inc., St. Louis, Missouri (formerly Cass Logistics, Inc.), and thereby engage in acquiring and holding credit card receivables generated by an affiliated bank, including acting as the soliciting agent for the affiliated bank, pursuant to § 225.25(b)(1)(ii), of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire, through its subsidiary Norwest Mortgage Inc., Des Moines, Iowa, the mortgage origination and servicing business of First National Bank of Parker, Parker, Colorado, and thereby engage in mortgage lending and servicing activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 6, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–5928 Filed 3–9–95; 8:45 am]

BILLING CODE 6210–01–F

Charles H. Deters; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-4972) published on page 11096 of the issue for Wednesday, March 1, 1995.

Under the Federal Reserve Bank of Cleveland heading, the entry for Charles H. Deters, is revised to read as follows:

1. Charles H. Deters, Walton, Kentucky; to acquire an additional 45.5 percent, for a total of 50 percent, of the voting shares of Commonwealth Trust Bancorp, Inc., Butler, Kentucky, and thereby indirectly acquire Farmers Bank, Butler, Kentucky.

Comments on this application must be received by March 15, 1995.

Board of Governors of the Federal Reserve System, March 6, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–5929 Filed 3–9–95; 8:45 am]

BILLING CODE 6210–01–F

First Interstate BancSystem of Montana, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than April 3, 1995.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Interstate BancSystem of Montana, Inc., Billings, Montana; to acquire 100 percent of the voting shares of First Park County Bancshares, Inc., Livingston, Montana, and thereby indirectly acquire First National Park Bank in Livingston, Livingston, Montana.

Board of Governors of the Federal Reserve System, March 6, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–5930 Filed 3–9–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Publication of ''Made in the USA'' Provisions of the Violent Crime Control and Law Enforcement Act of 1994

AGENCY: Federal Trade Commission.

ACTION: Notice of provisions of statute.

SUMMARY: On September 13, 1994, Congress enacted the Violent Crime Control and Law Enforcement Act of 1994 (''Crime Bill''). Section 320933 of the Crime Bill states, *inter alia,* that ''Made in the U.S.A.'' or ''Made in America'' claims or their equivalent shall be consistent with decisions and orders of the Federal Trade Commission (''Commission''). Section 320933 further states that it ''shall be effective upon publication in the **Federal Register** of a Notice of the provisions of this section.'' This notice implements the latter requirement.

DATES: Section 320933 of the Crime Bill is effective on March 10, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Easton, Special Assistant, Division of Enforcement, Federal Trade Commission, Washington, DC 20580, telephone 202/326–3029.

SUPPLEMENTARY INFORMATION: Section 5 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 45, directs the Commission to prevent ''deceptive acts and practices,'' including deceptive claims of domestic origin. Although goods manufactured in the United States generally are not required to have a label identifying domestic content, a manufacturer may choose to make an unqualified or a qualified domestic origin claim for its products.[1] An example of an unqualified claim is that a product is ''Made in USA,'' while an example of a qualified claim is that a product is ''Made in USA of foreign components.'' The Commission reviews Made in USA claims principally under its section 5 authority to prohibit deceptive acts or practices.[2]

On September 13, 1994, Congress enacted the Crime Bill, P.L. 103–322, 108 Stat. 2135. Section 320933 of the

[1] Some statutes require disclosure of domestic origin or domestic content for certain products. *E.g.*, Textile Products Identification Act, 15 U.S.C. 70; Wool Products Labeling Act, 15 U.S.C. 68 (both enforced by the Federal Trade Commission); American Automobile Labeling Act, 15 U.S.C. 1950 (enforced by the U.S. Department of Transportation.

[2] The Commission will find deception ''if there is a representation, omission or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment.'' Letter dated October 14, 1983, from the Federal Trade Commission to the Honorable John D. Dingell, Chairman, Committee on Energy and Commerce, U.S. House of Representatives (''Deception Statement''), *reprinted in Cliffdale Associates, Inc.*, 103 F.T.C. 110, 176 (1984).

Crime Bill (15 U.S.C. 45a) governs the use of certain Made in USA claims. Section 320933 states, *inter alia,* that ''Made in the U.S.A.'' or ''Made in America'' claims or their equivalent shall be consistent with decisions and orders of the Federal Trade Commission. The section further states that the section ''shall be effective upon publication in the **Federal Register** of a Notice of the provisions of this section. The Commission shall publish such notice within six months after the enactment of this section.''

The text of Section 320933 of the Crime Bill is as follows:

To the extent that any person introduces, delivers for introduction, sells, advertises, or offers for sale in commerce a product with a ''Made in the U.S.A.'' or ''Made in America'' label, or the equivalent thereof, in order to represent that such product was in whole or substantial part of domestic origin, such label shall be consistent with decisions and orders of the Federal Trade Commission issued pursuant to section 5 of the Federal Trade Commission Act. This section only applies to such labels. Nothing in this section shall preclude the application of other provisions of law relating to labeling. The Commission may periodically consider an appropriate percentage of imported components which may be included in the product and still be reasonably consistent with such decisions and orders. Nothing in this section shall preclude use of such labels for products that contain imported components under the label when the label also discloses such information in a clear and conspicuous manner. The Commission shall administer this section pursuant to section 5 of the Federal Trade Commission Act and may from time to time issue rules pursuant to section 553 of Title 5, United States Code for such purpose. If a rule is issued, such violation shall be treated by the Commission as a violation of a rule under section 18 of the Federal Trade Commissions [sic] Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices. This section shall be effective upon publication in the **Federal Register** of a Notice of the provisions of this section. The Commission shall publish such notice within six months after the enactment of this section.

Section 320933 provides that Made in USA claims are to be consistent with section 5 of the FTC Act, 15 U.S.C. 45 (''unfair or deceptive acts or practices''), and that the Commission may reexamine the application of its legal standard to particular facts as circumstances warrant. This provision authorizes the Commission to issue rules with respect to certain Made in USA claims. The Commission has made no determination whether rulemaking would be appropriate. However, the comments the Commission has received in response to a proposed consent agreement in *Hyde Athletic Industries, Inc.*[3] *suggests that additional guidance may be appropriate in this area. Should the Commission so determine, further opportunity for public input will be considered.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–5876 Filed 3–9–95; 8:45 am]

BILLING CODE 6750–01–M

[3] File No. 922–3236 (accepted for public comment Sept. 20, 1994, Commissioners Azcuenaga and Owen dissenting). In that mater, the Commission alleged that the company falsely implied that all, or virtually all, of the component parts of its product and all, or virtually all, of the labor used in assembling its product was domestic when, in fact, a substantial portion of the firm's product line was assembled overseas of foreign component parts, and a substantial portion of the products assembled in the United States was composed of foreign component parts. The proposed order provided that unqualified Made in USA claims will be permitted ''so long as all, or virtually all, of the component parts of the footwear are made in the United States and all, or virtually all, of the labor in assembling the footwear is performed in the United States.'' 59 FR 48892, 48893 (1994). After reviewing the comments received, the Commission will issue a public notice of its disposition in *Hyde.* (A consent agreement that the Commission has accepted subject to final approval is placed on the public record for a 60-day comment period, after which the Commission decides whether to make the agreement final. *See* Rule 2.34 of the Commission's Rules of Practice, 16 CFR 2.34).

At the same time that it published its proposed consent agreement with Hyde, the Commission also issued a complaint against New Balance Athletic Shoe, Inc., Docket No. 9268 (Commissioner Azcuenaga dissenting). That matter is currently in litigation before an administrative law judge.

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

The Depository Library Council to the Public Printer (DLC) will hold its Spring 1995 meeting on Monday, April 10, 1995, through Wednesday, April 12, 1995, in Arlington, Virginia. The meeting sessions will take place from 8:30 a.m. until 5 p.m. on Monday, 8 a.m. until 5 p.m. on Tuesday, and from 8:30 a.m. until 10:30 a.m. on Wednesday. The sessions will be held at the Rosslyn Westpark Hotel, 1900 North Fort Myer Drive, Arlington, Virginia 22209. The purpose of this meeting is to discuss the Federal Depository Library Program. The meeting is open to the public.

A limited number of hotel rooms have been reserved at the Rosslyn Westpark for anyone needing hotel accommodations. Telephone: 800–368–3408 or 703–527–4814; FAX: 703–522–8864. Please specify the Depository Library Council when you contact the hotel. Room cost per night is $87.

Michael F. DiMario,

Public Printer.

[FR Doc. 95–5939 Filed 3–9–95; 8:45 am]

BILLING CODE 1505-01–M

The Federal Register Online Via GPO Access; Public Meeting for Federal, State and Local Agencies, and Others Interested in a Demonstration of GPO Access, the Online Service Providing the Federal Register and Other Federal Databases

The Superintendent of Documents will hold two public meetings for Federal, state and local government agencies, and others interested in an overview and demonstration of the Government Printing Office's online service GPO Access, provided under the Government Printing Office Electronic Information Access Enhancement Act of 1993 (Public Law 103–40).

Two sessions are available on Wednesday, March 29, 1995, from 9 a.m. to 10:30 a.m. and from 11 a.m. to 12:30 p.m. Both sessions will be held at the University of Illinois-Chicago, Chicago Illini Union, 828 Walcott, Chicago, Illinois 60612.

The online **Federal Register** Service offers access to the daily issues of the **Federal Register** by 6 a.m. on the day of publication. All notices, rules and proposed rules, Presidential documents, executive orders, separate parts, and reader aids are included in the database as ASCII text files, with graphics provided in TIFF format. The online **Federal Register** is available via the Internet or as a dial-in-service. Historical data is available from January 1994 forward.

Other databases currently available online through GPO Access include the Congressional Record; Congressional Record Index, including the History of Bills; Congressional Bills; Public Laws; and U.S. Code.

Individuals interested in attending either session should contact the GPO's Office of Electronic Information Dissemination Services, John Berger, Product Manager, on 202–512–1525; (FAX) 202–512–1262; or by Internet e-mail at help@eids05.eids.gpo.gov. Seating reservations will be accepted through Friday, March 24, 1995.

Michael F. DiMario,

Public Printer.

[FR Doc. 95–5941 Filed 3–9–95; 8:45 am]

BILLING CODE 1505–02–M

The Federal Register Online Via GPO Access; Public Meeting for Federal, State and Local Agencies, and Others Interested in a Demonstration of GPO Access, the Online Service Providing the Federal Register and Other Federal Databases

The Superintendent of Documents will hold a public meeting for Federal, state, and local government agencies, and others interested in an overview and demonstration of the Government Printing Office's online service *GPO Access,* provided under the Government Printing Office Electronic Information Access Enhancement Act of 1993 (Public Law 103–40).

The session is available on Wednesday, April 5, 1995, from 1 p.m. to 2:30 p.m. The training session will be held at the Dallas Public Library, Library Auditorium, 1515 Young Street, Dallas, Texas 75201.

The online **Federal Register** Service offers access to the daily issues of the **Federal Register** by 6 a.m. on the day of publication. All notices, rules and proposed rules, Presidential documents, executive orders, separate parts, and reader aids are included in the database as ASCII text files, with graphics provided in TIFF format. The online **Federal Register** is available via the Internet or as a dial-in service. Historical data is available from January 1994 forward.

Other databases currently available online through *GPO Access* include the *Congressional Record; Congressional Record Index,* including the *History of Bills;* Congressional Bills; Public Laws; and *U.S. Code.*

Individuals interested in attending the training session should contact the GPO's Office of Electronic Information Dissemination Services, John Berger, Product Manager, on 202–512–1525; (FAX) 202–512–1262; or by Internet e-mail at help@eids05.eids.gpo.gov. Seating reservations will be accepted through Friday, March 31, 1995.

Michael F. DiMario,

Public Printer.

[FR Doc. 95–5940 Filed 3–9–95; 8:45 am]

BILLING CODE 1505–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92D–0039]

Animal Drug Manufacturing; Revised Guideline; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the revised four-part guideline entitled, ''Animal Drug Manufacturing Guidelines, 1994'' prepared by the Center for Veterinary Medicine (CVM). These guidelines describe the data and information for the manufacturing portions of abbreviated new animal drug applications, new animal drug applications, and supplements for pharmaceutical dosage forms.

DATES: Written comments on these guidelines may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the revised guidelines entitled, ''Animal Drug Manufacturing Guidelines, 1994: I. Pilot Batch Manufacture, II. Tentative Expiration Dates, III. Manufacturing Sites, and IV. New Animal Drug Substance Sources'' to the Communications and Education Branch (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1755. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the revised guidelines to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the revised guidelines and received comments may be seen at the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William G. Marnane, Center for Veterinary Medicine (HFV–143), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0678.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is announcing the availability of the revised four-part guideline entitled, ''Animal Drug Manufacturing Guidelines, 1994: I. Pilot Batch Manufacture, II. Tentative Expiration Dates, III. Manufacturing Sites, and IV. New Animal Drug Substance Sources'' prepared by CVM. These guidelines are intended to be used by both pioneer and generic manufacturers of veterinary drug products so that they are informed of the type of information that FDA believes will provide an acceptable submission to support the manufacturing requirements for new animal drug applications, abbreviated new animal drug applications, and supplemental applications for pharmaceutical dosage forms. In the **Federal Register** of August 21, 1992 (57 FR 37979), FDA issued a notice of availability of the four CVM guidelines entitled, ''Animal Drug Manufacturing Guidelines, 1992.'' Comments by the public were requested to be submitted at any time so that future revisions of the guidelines could be developed in consideration of the remarks.

The agency received three comments on the 1992 guidelines. The comments came from two drug manufacturers and one trade association. The 1992 guidelines have been revised as a result of these comments and from internal discussions within CVM.

Many editorial comments were made about all four guidelines. The editorial comments were adopted in the revised guidelines when the agency deemed that they were appropriate and provided clarification. Technical comments about ''Guideline I. Pilot Batch Manufacture'' focused on the CVM recommendations for the size of the test batch and the type of equipment or production facility that is appropriate for manufacturing test lots. A suggestion was made to allow bridging data in cases where the recommendations for batch size, production facility, equipment, and standard operating procedures are not practicable. Technical comments about ''Guideline II. Tentative Expiration Dates'' centered on a clarification of the definition of exaggerated storage conditions for different dosage forms and the application of expiration dating to all manufacturing sites for one drug product. Technical comments about ''Guideline III. Manufacturing Sites'' included criticisms of the definitions of the different types of manufacturing sites, the option for the agency to request bioequivalence data, and the appropriate location of sterile process validation data in the drug application. Technical comments about ''Guideline IV. New Animal Drug Substance Sources'' were made regarding the definitions of primary and alternate sources of the new animal drug substance, test batch and stability data for supplemental applications, and bioequivalence data requirements for mastitis products. All of these comments were considered in the revision of the manufacturing guidelines.

One of the most significant changes to the 1992 guidelines is to allow bridging data to be submitted when the recommendations for batch size, production facility, equipment, and standard operating procedures for pilot

batches are not practicable. The sponsor may create an alternative plan to that recommended in order to compare the bioavailability and stability characteristics of the test and production batch. Another major change to the guidelines is the provision of an alternate means by which sponsors may meet the supplemental application recommendations for alternate manufacturing sites and alternate sources of bulk drug substance when multiple NADA's and ANADA's are affected. The sponsor may request that pilot batches of representative drug products within the same dosage form class be manufactured instead of producing pilot batches of all affected drug products.

These ''Animal Drug Manufacturing Guidelines, 1994'' are not intended to be individual stand-alone documents. Much of the information presented in one guideline may be equally important to the correct interpretation of the other guidelines. Therefore, all four guidelines are being issued concurrently.

Guidelines state procedures or practices that may be useful to the persons to whom they are directed, but are not legal requirements. The agency is in the process of revising §§ 10.85(d) and 10.90(b) (21 CFR 10.85(d) and 10.90(b)). Therefore, these guidelines are not being issued under authority of present §§ 10.85(d) and 10.90(b). A person may follow the guideline or may choose to follow alternate procedures or practices. If a person chooses to use alternate procedures or practices, that person may wish to discuss the matter further with the agency to prevent an expenditure of money and effort on activities that may later be determined to be unacceptable to FDA. A guideline does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person. When a guideline states a requirement imposed by statute or regulation, however, the requirement is law and its force and effect are not changed in any way by virtue of its inclusion in the guideline.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the guideline. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guideline and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Received comments will be considered to determine if further revision of the guideline is necessary.

Dated: March 6, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–6006 Filed 3–9–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0058]

Drug Export; Bulk Drug Substance Paclitaxel

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that NaPro BioTherapeutics, Inc., has filed an application requesting approval for the export of the bulk human drug substance Paclitaxel for formulation, filling, and packaging into Anzatax™ Injection Concentrate 30 milligrams (mg) paclitaxel in 5 milliliter (mL) vials to Australia.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Center for Drug Evaluation and Research (HFD–310), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that NaPro BioTherapeutics, Inc., 4725 Walnut St., suite 100, Boulder, CO 80301, has filed an application requesting approval for the export of the bulk human drug substance Paclitaxel for formulation, filling, and packaging into Anzatax™ Injection Concentrate 30 mg paclitaxel in 5 mL vials to Australia. This product is indicated for the treatment of refractory ovarian cancer. The application was received and filed in the Center for Drug Evaluation and Research on October 21, 1994, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 20, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: March 2, 1995.

Edward Miracco,

Acting Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 95–6005 Filed 3–9–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on February 10, 1995. (Call Reports

Clearance Officer on (410) 965–4142 for copies of package.)

1. Real Property Current Market Value—0960–0471. The information on form SSA–2794 is used by the Social Security Administration to determine the value of non-home real property owned by applicants for or recipients of Supplemental Security Income. The respondents are persons experienced in estimating the current market of real property.

Number of Respondents: 6,188
Frequency of Response: 1
Average Burden Per Response: 20 minutes
Estimated Annual Burden: 2,063 hours

2. Employer Verification of Earnings After Death—0960–0472. The information on form SSA–L4112 is used by the Social Security Administration to determine whether wages reported by an employer are correct, when SSA records indicate the wage earner is deceased. The respondents are employers who report wages for a deceased employee.

Number of Respondents: 50,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 8,333 hours

3. Farm Self-Employment Questionnaire—0960–0061. The information on form SSA–7156 is used by the Social Security Administration to determine whether an agricultural trade or business exists and possible covered earnings for Social Security entitlement purposes. The respondents are claimants for benefits who allege covered earnings from agricultural self-employment.

Number of Respondents: 47,500
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 7,917 hours

4. SSI PE Returned Check Questionnaire—0960–NEW. The information on form SSA–281 will be used by the Social Security Administration to improve the accuracy of the SSA PE returned check process. The purpose of the questionnaire is to collect statistical information needed to identify areas which are deficient, thereby improving service to the public and reducing Government expenditures. The respondents are SSI beneficiaries or their representative payees.

Number of Respondents: 1,000
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 250 hours

5. Report by Former Representative Payee—0960–0112. The information on form SSA–625 is used by the Social Security Administration to determine if State institutions or agencies which were formerly payees for Social Security benefits have properly used such funds. The respondents are State institutions or agencies who have terminated representative payee services.

Number of Respondents: 8,000
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 2,000 hours

6. Certificate of Support—0960–0001. The information on form SSA–760 is used by the Social Security Administration to determine if a parent of a deceased wage earner or a spouse receiving a Government pension meets the one-half support requirement for entitlement to benefits. The respondents are parents of deceased wage earners and spouses who are entitled to receive a Government pension.

Number of Respondents: 18,000
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 4,500 hours

OMB Desk Officer: Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: Office of Management and Budget, OIRA, New Executive Office Building, Room 10230, Washington, D.C. 20503.

Dated: March 6, 1995.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 95–5829 Filed 3–9–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. R–95–1771/3881; FR–3844/3859–N–02]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 27, 1995.

David S. Cristy,

Acting Director, Information Resources and Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Enterprise Zones Homeownership Opportunity Grant (EZ Homes) (FR–3844/3859).

Office: Housing.

Description of the Need for the Information and its Proposed Use: Section 186 of the Housing and Urban Development Act of 1992 (HCDA 1992) (P.L. 102–550, approved October 28,

1992), authorizes HUD to provide assistance through grants to non-profit organizations to carry out enterprise zone homeownership opportunity programs to promote homeownership in Federally approved and equivalent State-approved enterprise zones. The purpose of the program is to provide an opportunity for those families who otherwise would not be financially able to realize their dream of owning a home, and to also create sound and attractive neighborhoods.

Form Number: None.

Respondents: Not-For-Profit Institutions, Individuals or Households, and State, Local, or Tribal Government.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Applications Reports	30		1		8		240
Reports	10		130		1.1		1,390

Total Estimated Burden Hours: 1,630.

Status: New.

Contact: Joan Morgan, HUD, (202) 708–0614; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: February 27, 1995.

[FR Doc. 95–5970 Filed 3–9–95; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–1917; FR–3778–N–27]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: March 10, 1995.

ADDRESSES: For further information, contact William Molster, Department of Housing and Urban Development, Room 7254, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: March 3, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 95–5803 Filed 3–9–95; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–030–95–1310–01]

Continental Divide Natural Gas Project; Wyoming; Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS) and to Conduct Scoping for the Continental Divide Natural Gas Project, Carbon and Sweetwater Counties, Wyoming.

SUMMARY: Under section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Land Management (BLM), Rawlins District Office, will direct the preparation of an EIS on the potential impacts of a proposed natural gas field development project. Between 500 and 2,000 gas wells and associated facilities could be constructed on approximately 660,000 acres of private, Federal, and State lands, over a 10-year development period. The project area is located in Carbon and Sweetwater Counties, Wyoming. Affected Federal land is public land administered by the BLM Rawlins and Rock Springs Districts. The EIS will be prepared by a third party contractor.

DATES: Comments on the scoping process will be accepted through April 7, 1995. Public Scoping Meetings are not planned at this time.

ADDRESSES: Comments should be sent to Bureau of Land Management, Rawlins District Office, Walter E. George, Project Leader, 1300 3rd Street, P.O. Box 670, Rawlins, WY 82301.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Walter E. George, Project Leader, 1300 3rd Street, P.O. Box 670, Rawlins, WY 82301, phone number 307–324–7171.

SUPPLEMENTARY INFORMATION: Amoco Production Company and other oil and gas companies have proposed a 10-year field development project. The proposed project area, referred to as the Continental Divide Area, is generally located in Townships 15 through 23 North, Ranges 91 through 99 West of Carbon and Sweetwater Counties in south-central Wyoming. The project area is located approximately 25 miles west of Rawlins and 40 miles east of Rock Springs and is bisected by Interstate Highway 80 from east to west. The project area is approximately 660,000 acres in size. Landownership is 52% Federal, 47% private, and 1% State. Federal land in the project is public land administered by the BLM Rawlins and Rock Springs Districts.

Four alternatives are proposed for analysis in the EIS. A low development alternative will analyze the impact of a possible 250 wells (one well for every four square miles). The proposed action will analyze the impact of a possible 1,250 wells (one well per square mile). A high development alternative will analyze the impact of a possible 2,000 wells (two wells per square mile). The no action alternative will also be analyzed.

If the project is approved, site-specific environmental assessments (EAs) will be tiered from this EIS for individual authorizations (Permits to Drill or Right-of-Way Grants). Drilling of exploratory or delineation wells on existing Federal leases will be permitted during the preparation of the EIS on a case-by-case basis. A site-specific EA will be prepared for each of these applications.

This EIS will consider cumulative impacts from other proposed oil and gas projects, especially recently completed EISs for the Mulligan Draw Gas Field Project, the Creston/Blue Gap Natural Gas Project, and the Greater Wamsutter II Natural Gas Project. Potential issues to be addressed in the EIS include, but are

not limited to: prevention of Federal mineral drainage, access road development and transportation management, erosion control, reclamation, protection of cultural resources, noxious weed control, impacts to wildlife populations and their habitat, and cumulative impacts.

Public comments and participation on three previous EISs adjacent to the Continental Divide Project area was low. Public scoping meetings were not held for these projects. No scoping meeting is scheduled for this project. Written comments on the scope and content of the EIS will be accepted until the close of the scoping period.

Dated: March 6, 1995.

Alan R. Pierson,

State Director, Wyoming.

[FR Doc. 95–5927 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–22–M

[MT–930–1430–01; MTM 82056]

Opening of Land in a Proposed Withdrawal; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The temporary 2-year segregation of a proposed withdrawal of 160 acres of National Forest System land for protection of quartz crystals in the Snowbird Mine expires on April 21, 1995, and the land will be opened to mining. It has been and remains open to surface entry and mineral leasing.

EFFECTIVE DATE: April 21, 1995.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2935.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Withdrawal was published in the **Federal Register**, 58 FR 21474–21475, April 21, 1993, which segregated the land described therein for up to 2 years from location and entry under the mining laws, subject to valid existing rights, but not from other forms of disposition which may by law be made of National Forest System land. The 2-year segregation expires April 20, 1995. The withdrawal application will continue to be processed unless it is canceled or denied. The land is described as follows:

Principal Meridian, Montana.

T. 12 N., R. 25 W.,
sec. 19, SW¼.

The area described contains 160 acres in Mineral County.

At 9 a.m. on April 21, 1995, the land will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provision of existing withdrawals, and other segregations of record. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempting adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by state law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights, since Congress has provided for such determinations in local courts.

Dated: March 1, 1995.

John E. Moorhouse,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 95–5853 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–DN–P

[NM–030–1430–01; NMNM 91746]

Realty Action; Noncompetitive Lease of Public Land in Otero County, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following-described parcel of public land is being considered for long-term lease under Section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762; 43 U.S.C. 1782), at not less than fair market value:

New Mexico Principal Meridian

T. 22 S., R. 8 E.,
Sec. 14, SE¼SW¼SW¼NE¼

The parcel comprises 1.7 acres.

The land is being proposed for lease to Mrs. Yvette A. Mullen to settle unauthorized occupancy of public land. The proposal is consistent with land use planning for the site, and the land is considered generally suitable for the proposed use. The proposal will be evaluated in accordance with the National Environmental Policy Act to assess impacts upon the filing of an application.

DATES: Interested parties may submit comments to the Area Manager, Bureau of Land Management, Caballo Resource Area, 1800 Marquess, Las Cruces, New Mexico 88005 by April 21, 1995.

FOR FURTHER INFORMATION CONTACT: Judith Waggoner, Realty Specialist, Caballo Resource Area at the BLM, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico or by calling (505) 525–4403.

SUPPLEMENTARY INFORMATION: Any adverse comments will be evaluated by the Las Cruces District Manager, who may sustain, vacate, or modify this realty action. In the absence of any objection, this proposed realty action will become final.

Dated: February 28, 1995.

Tim L. Sanders,

Acting Area Manager, Caballo Resource Area.

[FR Doc. 95–5854 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–FB–P

[CA–010–03–1110–01]

Seasonal Visitation Restriction Order for the Carrizo Plain Natural Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of a seasonal visitation restriction order on public lands within the Carrizo Plain Natural Area of the Caliente Resource Area, Bakersfield District, CA.

SUMMARY: This emergency action restricts public access on BLM-administered rock outcrops within the Carrizo Plain Natural Area due to the presence of sensitive species of birds of prey during a critical part of their life cycle, and restricts vehicular use of certain roads due to seasonal fire hazard. The public lands affected by this restriction are located within Kern and San Luis Obispo counties, California.

SUPPLEMENTARY INFORMATION: Effective March 13, 1995, and pursuant to 43 CFR 8360 and 43 CFR 8364.1(a), all visitation within 0.25 miles of any rock outcrop in the vicinity of and including Painted Rock is unlawful. This prohibition includes all outcrops within public lands in T32S, R20E, Sections 8, 16 and 17, Mount Diablo Base and Meridian. Access shall be limited to persons carrying written permission from the Authorized Officer, or those participating in an authorized guided tour.

Pursuant to 43 CFR 8360 and 43 CFR 8364.1(a), roads presenting a fire hazard due to vegetation growth will be closed to vehicle use during the dry fire season. All such roads will be posted with appropriate signs to advise of the closure. This Seasonal Visitation Restriction Order will be in effect until June 30, 1995 for the Painted Rock area, and on an as needed basis for the road closures, generally from June 1 until September 30.

This emergency visitor restriction is necessary in order to limit disturbance to nesting birds of prey to a level compatible with successful nesting while allowing for educational and recreational use; and to reduce accidental fires caused by vehicle travel on roads overgrown with vegetation. Maps of the affected area, and information concerning guided tours, are available from the Caliente Resource Area Office, 3801 Pegasus Drive, Bakersfield, California 93308–6837.

Bureau of Land Management employees and Carrizo Plain cooperators are exempt from this order while in the course of their official duties.

Any person failing to comply with this restriction order may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Penalties are contained in 43 CFR 8360.0–7.

Dated: March 2, 1995.

Steve Larson,

Acting Area Manager, Caliente Resource Area.

[FR Doc. 95–5856 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–40–M

[OR–100–95–6332–00; GP5–072]

Recreation Management; Supplementary Rules

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of supplementary rules for recreation areas.

SUMMARY: The Roseburg District is establishing new supplementary rules to set the standards of conduct for persons using public lands and the penalties that may be imposed for failure to obey the regulations. The rules apply primarily to developed recreation areas, however, some apply to all public lands where recreation uses may occur. The rules are designed to augment existing laws contained in the Code of Federal Regulations; and to ensure safe, enjoyable and environmentally sound visitation on the public lands, free from unwarranted disturbance. These rules supersede other supplementary rules established in November, 1989.

Camping Limits

1. Overnight camping is prohibited in designated Research Natural Areas unless otherwise permitted by the authorized officer.

2. Within the North Umpqua Wild and Scenic River Corridor, overnight camping is prohibited except at designated campgrounds and camping along the North Umpqua Trail between one-hundred feet and five-hundred feet from the trail, or by special permit issued by the authorized officer.

3. In designated campgrounds and all other public lands open to camping, overnight camping is restricted to 14 days, either through a number of separate visits or through continuous occupation, subject to payment of camping fees at developed sites. Upon reaching the 14 day limit, occupants and all their possessions must leave Roseburg District BLM lands for a minimum of 14 consecutive days.

Restrictions at Designated Campgrounds

1. Payment of campground fees must be made within one-half hour after arrival.

2. Campground users must occupy a campsite the first night of their stay; pre-payment to hold an unoccupied campsite is not allowed. After the first night, users may not leave personal property unattended for more than 24 hours, unless otherwise permitted by the authorized officer.

3. Use of shower facilities is restricted to campground occupants who have paid the campsite registration fee, unless otherwise permitted by the authorized officer.

4. No person shall operate or use any audio or motorized equipment, or create or allow obtrusive noises (human or animal) in a manner that disturbs other visitors between 9 p.m. and 8 a.m.

Day-Use Areas

1. Animals are not allowed in day-use areas except in areas designated for pets, or situations requiring a seeing eye or hearing ear dog. Pets must be restrained and under control of a person at all times.

2. A Recreation Use Permit is required for pavilion use by groups of 25 people or more.

3. Millpond, Cavitt Creek, Rock Creek and Tyee Day Use Areas must be vacated one-half hour after sunset unless otherwise permitted by the authorized officer.

4. No person may leave personal property unattended in designated day-use areas for more than 24 hours, except for vehicles and non-occupied trailers parked at trailheads.

Trail Restrictions: Motorized vehicle use is prohibited on trails designated for hikers, mountain bikers or horseback riders, unless otherwise permitted by the authorized officer.

Fire Restrictions: Open-pit campfires are prohibited on the south side (trail area) of the North Umpqua Wild and Scenic River Corridor during fire season. Dates of fire season are determined annually by Douglas Forest Protective Assoc.

Firearm Restrictions: No person shall discharge a firearm within one-half mile of a developed recreation site or area; or across or within 100 feet of any designated recreation trail. A list of trails is maintained in the Roseburg District Office.

DATES: These supplementary recreation rules shall be effective March 30, 1995, and remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Gregg Morgan, Bureau of Land Management, 777 N.W. Garden Valley Blvd., Roseburg, Oregon 97470 Telephone (503) 440–4930.

SUPPLEMENTARY INFORMATION: Camping limits are established to reduce the incidence of long-term unauthorized occupancy, while permitting legitimate camping on the public lands administered by the Roseburg District. Authority of these supplementary rules is contained in 43 CFR, chapter II, subpart 8360.0–3 and 8365.1–6. Persons who fail to comply with these provisions may be subject to the penalties provided in 43 CFR 8360.0–7 and 43 CFR 9262.1, which include a fine not to exceed $1000.00 and/or imprisonment for not to exceed 12 months.

Dated: March 1, 1995.

David R. Baker,

Acting District Manager.

[FR Doc. 95–5848 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–33–P

[MT–020–1610–00]

Availability of Proposed Final Big Dry Resource Management Plan and Environmental Impact Statement; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with Section 202 of the Federal Land Policy and Management Act of 1976 and Section 202(C) of the National Environmental Policy Act of 1969, the final resource management plan (RMP) and environmental impact statement (EIS) have been prepared for the Big Dry Resource Area planning area. The RMP and EIS describe and analyze future options for management of approximately 1.7 million federal surface acres and 7.6 million federal mineral acres managed by the Bureau of Land Management. These federal acres are located in all or portions of Carter,

Custer, Daniels, Dawson, Fallon, Garfield, McCone, Prairie, Richland, Roosevelt, Rosebud, Sheridan, and Wibaux Counties. The RMP and EIS provide a comprehensive plan for managing federal resources administered by the Bureau of Land Management.

PUBLIC PARTICIPATION: The draft RMP and EIS were available for public review from March 19, 1993, to June 18, 1993. A **Federal Register** notice asking for comments on two newly proposed areas of critical environmental concern was published on November 26, 1993, with the comment period ending January 25, 1994. Written comments were received from agencies, organizations, and individuals. All comments were considered during the preparation of the final RMP and EIS.

Reading copies will be available at each public library in the counties listed above. Public reading copies will also be available at the following Bureau of Land Management locations:

Office of External Affairs, Main Interior Building, Room 5800, 18th and C Streets NW, Washington, DC 20240.
External Affairs Office, Montana State Office, 222 North 32nd Street, Billings, MT 59107.
Miles City District Office, Garryowen Road, Miles City, Montana 59301.
Big Dry Resource Area Office, Miles City Plaza, Miles City, Montana 59301.

The RMP process includes an opportunity for review through a plan protest to the Bureau of Land Management's Director. Any person or organization who participated in the planning process and has an interest which is, or may be, adversely affected by approval of this RMP may protest the plan. Careful adherence to the following guidelines will assist in preparing a protest:

Only those persons or organizations who participated in the planning process may protest.

A protesting party may raise only those issues which were commented on during the planning process.

Additional issues may be raised at any time and should be directed to the Miles City District for consideration in plan implementation as potential plan amendments or as otherwise appropriate.

In order to be considered complete, a protest must contain, at a minimum, the following information:

The name, mailing address, telephone number, and interest of the person filing the protest.

A statement of the issue being protested.

A statement of the portion of the plan being protested. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, and maps in the proposed RMP.

A copy of all documents addressing the issue submitted during the planning process or a reference to the date the issue was discussed for the record.

A concise statement explaining why the BLM State Director's decision is believed to be incorrect is a critical part of the protest. Take care to document all relevant facts and reference or cite the planning documents, environmental analysis documents, and available planning records (meeting minutes, summaries, correspondence). A protest without any data will not provide the BLM with sufficient information, and the Director's review will be based on existing analysis and supporting data.

The period for filing protests begins when the Environmental Protection Agency publishes in the **Federal Register** a Notice of Receipt of the final EIS containing the proposed RMP. The protest period lasts 30 days. There is no provision for any extension of time. To be considered ''timely,'' the protest must be sent to the Director of the BLM and must be postmarked no later than the last day of the 30-day protest period. Although not a requirement, sending a protest by certified mail, return receipt requested, is recommended.

ADDRESSES: All protests must be filed in writing to: Director (480), Resource Planning Team, Bureau of Land Management, P.O. Box 65775, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Mary Bloom, RMP/EIS Team Leader, Big Dry Resource Area Office, Miles City Plaza, Miles City, Montana 59301, 406–232–7000.

SUPPLEMENTARY INFORMATION: The proposed final RMP and EIS analyzes four alternatives to resolve two issues: special management designations and resource accessibility and availability. Each alternative represents a complete management plan. The alternatives can be summarized as:

(1) Current management or no action, (2) resource protection, (3) resource production, and (4) the preferred alternative, which may be a combination of the previous three.

The RMP and EIS designates 12 areas of critical environmental concern.

The Big Sheep Mountain Cultural Site (360 public surface acres) in Prairie County would be designated an area of critical environmental concern. This area would be managed to enhance and protect cultural resources. Management actions affecting this area are: off-road vehicle travel would be limited to existing roads and trails, locatable minerals would be withdrawn from mineral entry, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would not be permitted, livestock grazing would be allowed, and rights-of-way construction would be avoided.

The Hoe Cultural Site (144 public surface acres) in Prairie County would be designated an area of critical environmental concern. This area would be managed to enhance and protect cultural resources. Management actions affecting this area are: off-road vehicle travel would be limited to existing roads and trails, locatable minerals would be withdrawn from mineral entry, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would not be permitted, livestock grazing would be allowed, and rights-of-way construction would be avoided.

The Jordan Bison Kill Cultural Site (160 public surface acres) in Garfield County would be designated an area of critical environmental concern. This area would be managed to enhance and protect cultural resources. Management actions affecting this area are: Off-road vehicle travel would be limited to existing roads and trails, locatable minerals would be withdrawn from mineral entry, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would not be permitted, livestock grazing would be allowed, and rights-of-way construction would be avoided.

The Powder River Depot Cultural Site (1,386 public surface acres) in Prairie County would be designated an area of critical environmental concern. This area would be managed to enhance and protect cultural resources. Management actions affecting this area are: Off-road vehicle travel would be limited to existing roads and trails, locatable minerals would be withdrawn from mineral entry, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would not be permitted, livestock grazing would be excluded on the Powder River Depot

Special Recreation Management Area (171 acres) located within the Powder River Depot Area of Critical Environmental Concern, and rights-of-way construction would be avoided.

The Seline Cultural Site (80 public surface acres) in Dawson County would be designated an area of critical environmental concern. This area would be managed to enhance and protect cultural resources. Management actions affecting this area are: Off-road vehicle travel would be limited to existing roads and trails, locatable minerals would be withdrawn from mineral entry, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would not be permitted, livestock grazing would be allowed, and rights-of-way construction would be avoided.

The Ash Creek Divide Paleontology Area (7,931 public surface acres) in Garfield County would be designated an area of critical environmental concern. This area would be managed to enhance and protect paleontology resources. Management actions affecting this area are: Off-road vehicle travel would be limited to existing roads and trails, locatable minerals would be withdrawn from mineral entry, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would not be permitted, livestock grazing would be allowed, and rights-of-way construction would be permitted.

The Bug Creek Paleontology Area (3,840 public surface acres) in McCone County would be designated an area of critical environmental concern. This area would be managed to enhance and protect paleontology resources. Management actions affecting this area are: Off-road vehicle travel would be limited to existing roads and trails, locatable minerals would be withdrawn from mineral entry, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would not be permitted, livestock grazing would be allowed, and rights-of-way construction would be permitted.

The Hell Creek Paleontology Area (19,169 public surface acres) in Garfield County would be designated an area of critical environmental concern. This area would be managed to enhance and protect paleontology resources. Management actions affecting this area are: Off-road vehicle travel would be limited to existing roads and trails, locatable minerals would be withdrawn from mineral entry, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would not be permitted, livestock grazing would be allowed, and rights-of-way construction would be permitted.

The Sand Arroyo Paleontology Area (9,056 public surface acres) in McCone County would be designated an area of critical environmental concern. This area would be managed to enhance and protect paleontology resources. Management actions affecting this area are: Off-road vehicle travel would be limited to existing roads and trails, locatable minerals would be withdrawn from mineral entry, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would not be permitted, livestock grazing would be allowed, and rights-of-way construction would be permitted.

The Black-Footed Ferret Area (11,166 public surface acres) in Prairie and Custer Counties would be designated an area of critical environmental concern. This area would be managed as a potential black-footed ferret reintroduction area and for associated species. Management actions affecting this area are: Off-road vehicle travel would be limited to existing roads and trails, locatable mineral entry would be allowed, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with controlled surface use on 5,164 public mineral acres, geophysical exploration would not be permitted on 5,164 public mineral acres, prairie dog colonies would be allowed to expand within the 11,166 acre area of critical environmental concern, livestock grazing would be allowed, and rights-of-way construction would be avoided.

The Piping Plover Wildlife Site (16 public surface acres) in Sheridan County would be designated an area of critical environmental concern. This area would be managed to enhance and protect the piping plover. Management actions affecting this area are: Off-road vehicle travel would be limited to existing roads and trails, locatable minerals would be withdrawn from mineral entry, mineral material sales and permits would not be allowed, nonenergy leasable minerals would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would not be permitted, livestock grazing would not be allowed, and rights-of-way construction would be avoided.

The Smoky Butte Area (80 public surface acres) in Garfield County would be designated an area of critical environmental concern. This area would be managed to protect the unique geologic values. Management actions affecting this area are: The area would be closed to motorized vehicles, locatable minerals would be withdrawn from mineral entry subject to valid existing rights, mineral material sales and permits would not be allowed, nonenergy leasable minerals and coal would not be available for leasing, oil and gas leasing would be allowed with a no-surface occupancy stipulation, geophysical exploration would be permitted, livestock grazing would be allowed, and rights-of-way construction would be excluded.

Management prescriptions for these areas of critical environmental concern vary by alternative and are described in the RMP and EIS.

Public participation has occurred throughout the RMP process. A Notice of Intent was filed in the **Federal Register** in October 1989. Since that time several public meetings, mailings, and briefings were conducted to solicit comments and ideas. All comments presented throughout the process have been considered.

This notice meets the requirements of 43 CFR 1610.7–2 for designation of areas of critical environmental concern and the requirements of the Final Revised USDI–USDA Guidelines for Eligibility, Classification, and Management of Rivers (47 FR 39454).

Dated: March 1, 1995.

John E. Moorhouse,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 95–5852 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–DN–P

[WY–989–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled

to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 50 N., R. 73 W., accepted February 15, 1995
T. 51 N., R. 73 W., accepted February 14, 1995

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protests(s) and or appeal(s). These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 2515 Warren Ave., Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: March 1, 1995.

John P. Lee,

Chief Branch of Cadastral Survey.

[FR Doc. 95–5847 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–22–M

[OR–942–00–1420–00: G5–066]

Filing of Plats of Survey: Oregon/ Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 37 S., R. 3 E., accepted November 30, 1994
T. 11 S., R. 25 E., accepted November 30, 1994
T. 17 S., R. 1 W., accepted February 17, 1995
T. 21 S., R. 4 W., accepted December 19, 1994
T. 30 S., R. 12 W., accepted December 19, 1994 (2 Sheets)

Washington

T. 36 N., R. 40 E., accepted January 17, 1995
T. 37 N., R. 40 E., accepted January 17, 1995

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1515 S.W. 5th Avenue, Portland, Oregon 97201, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (1515 S.W. 5th Avenue), P.O. Box 2965, Portland, Oregon 97208.

Dated: February 28, 1995.

Tempe T. Berggren,

Acting Chief, Branch of Realty and Records Services.

[FR Doc. 95–5855 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–33–M

[AZ–930–1430–01; AZA–28980]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On January 19, 1995, the U.S. Postal Service filed application AZA–28980 to withdraw approximately 2.514 acres (109,510 square feet) of public land as a post office site for the community of San Luis, Arizona. The land is located within the San Luis Townsite in Yuma County. The withdrawal is to be from mineral entry only.

DATES: Comments and requests for a meeting should be received on or before June 8, 1995.

ADDRESSES: Comments and meeting requests should be sent to the Arizona State Director, Bureau of Land Management (BLM), 3707 North 7th Street, Phoenix, Arizona 85014–5080.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, 602–650–0518.

SUPPLEMENTARY INFORMATION: On January 19, 1995, the U.S. Postal Service filed application AZA–28980 to withdraw the following described public land from location and entry under the United States mining laws, subject to valid existing rights.

The legal description of the proposed withdrawal is as follows:

Gila and Salt River Meridian

T. 11 S., R. 25 W.,
sec. 12, lots 1–5, block 26 of the San Luis Townsite delineated and designated on the approved Townsite Plat 35–300–68;

The area described aggregates 2.514 acres, more or less, or 109,510 square feet of public land in Yuma County, Arizona.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposal must submit a written request to the Arizona State Director within 90 days from the date of publication of this notice. Upon a determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless an application is denied or canceled or the

withdrawal is approved prior to that date.

Dated: February 28, 1995.

Herman L. Kast,

Deputy State Director, Resource Planning, Use & Protection Division.

[FR Doc. 95–5851 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–32–P

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications and Amendment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Amendment of Blanket Permit PRT–778102 to remove the Arctic peregrine falcon (*Falco peregrinus tundrius*); add the Aleutian shield fern (*Polystichum aleuticum*) and the Steller's eider (*Polysticta stelleri*); and change the permittee and principal officer from the Regional Director to the Assistant Regional Director, Ecological Services.

The following applicant has applied for a permit to conduct certain activities with an endangered species and a proposed threatened species, if listed, and requested removal of a delisted species from the blanket permit. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

Permit No. PRT–778102

Applicant: Assistant Regional Director, Ecological Services, Anchorage, Alaska.

The applicant requests amendment to their current permit to remove the Arctic peregrine falcon (*Falco peregrinus tundrius*) from the Regional Blanket Permit No. PRT–778102. Effective October 5, 1994, this species was delisted (59 FR 50796).

The applicant also requests amendment to their current permit to add the endangered Aleutian shield fern (*Polystichum aleuticum*) to the blanket permit in order to conduct certain research activities. Activities will benefit the recovery of the species and include scientific research and enhancing propagation and survival of the species as prescribed by Fish and Wildlife Service recovery documents. The applicant also requests the addition of the Steller's eider (*Polystichum stelleri*) if and when it becomes federally listed as endangered or threatened under the Endangered Species Act. All activities for the Aleutian shield fern and Steller's eider will be in compliance with the general permit conditions included under Permit Number PRT–778102.

The applicant also requests amendment to their current permit to change the permit applicant and principal officer from the Regional Director to the Assistant Regional Director, Ecological Services. This proposed change is consistent with the delegation of Native Endangered and Threatened Species Take and Interstate Commerce Recovery Permits from the Director to Regional Directors on May 16, 1994.

Written data or comments in regard to the application should be sent to the address provided below. Documents and other information submitted in conjunction with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Assistant Regional Director, Ecological Services, 1011 East Tudor Road, Anchorage, Alaska 99503. Phone (907) 786–3544 or FAX (907) 786–3306.

Dated: February 28, 1995.

Janet E. Hohn,

Regional Director, Region 7, Fish and Wildlife Service.

[FR Doc. 95–5846 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–55–P

Finding of No Significant Impact for an Incidental Take Permit for the Construction and Operation of the Davenport Ranch Subdivision in Austin, Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared an Environmental Assessment for issuance of a Section 10(a)(1)(B) permit for the incidental take of the Federally endangered black-capped vireo (*Vireo atricapillus*) during the construction and operation of a residential development in western Travis County, Texas.

Proposed Action

The proposed action is the issuance of a permit under Section 10(a)(1)(2) of the Endangered Species Act to authorize the incidental take of the black-capped vireo.

The Applicant plans to construct single-family residences on approximately 210 acres in western Travis County, Texas. The proposed development will comply with all local, State, and Federal environmental regulations addressing environmental impacts associated with this type of development. Details of the mitigation are provided in the Davenport Ranch Subdivision Environmental Assessment/Habitat Conservation Plan. Guarantees for implementation are provided in the Agreement. These conservation plan actions ensure that the criteria established for issuance of an incidental take permit will be fully satisfied.

Alternatives Considered

1. No action,
2. Development of the 107.8 acres of the 210-acre tract (Preferred Alternative),
3. A reduced development plan,
4. Alternative location, and
5. Wait for issuance of a Regional 10(a)(1)(B) incidental take permit.

Determination

Based upon information contained in the Environmental Assessment/Habitat Conservation Plan, the Service has determined that this action is not a major Federal action which would significantly affect the quality of the human environment with the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an Environmental Impact Statement on the proposed action is not warranted.

It is my decision to issue the Section 10(a)(1)(B) permit for the construction and operation of the Davenport Ranch Subdivision development in Travis County, Texas.

A. Robyn Thorson,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–5926 Filed 3–9–95; 8:45 am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32562 (Sub-No. 2)]

Soo Line Railroad Company d/b/a CP Rail System—Acquisition of Trackage Rights Exemption—Wisconsin and Calumet Railroad Company, Inc., Wisconsin & Southern Railroad Company and Wisconsin River Transit Commission d/b/a Wisconsin River Rail Transit Commission

Wisconsin [1] and Calumet Railroad Company, Inc. (WICT), Wisconsin & Southern Railroad Company (WSOR), and Wisconsin River Transit Commission d/b/a Wisconsin River Rail Transit Commission (WRRTC), have agreed to grant non-exclusive overhead trackage rights and certain industry access to Soo Line Railroad Company d/b/a CP Rail System (CPRS), over and upon WRRTC's line of railroad (owned in conjunction with the Wisconsin Department of Transportation and leased and operated by WICT and WSOR). The trackage is located between the division of ownership with the Chicago Transit Authority (operated as METRA) at Fox Lake, IL, milepost 49.8 +/− and the CPRS connection at milepost 94.49 +/− at Janesville, WI. The trackage rights will offer CPRS an alternative and additional route to handle traffic between Janesville and Chicago, IL. The trackage rights were to become effective on or after August 29, 1994.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time.[2] The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Wayne C. Serkland, 1000 Soo Line Bldg., 105 South 5th St., Minneapolis, MN 55402.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: March 6, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–5946 Filed 3–9–95; 8:45 am]

BILLING CODE 7035–01–P

[1] Notices of Exemption were concurrently filed in *Soo Line Railroad Company d/b/a CP Rail System—Acquisition of Trackage Rights Exemption—Wisconsin and Calumet Railroad Company, Inc., Wisconsin & Southern Railroad Company and Wisconsin River Transit Commission d/b/a Wisconsin River Rail Transit Commission*, Finance Docket No. 32562, and *Soo Line Railroad Company d/b/a CP Rail System—Acquisition of Trackage Rights Exemption—Wisconsin and Calumet Railroad Company, Inc., and Wisconsin & Southern Railroad Company*, Finance Docket No. 32562 (Sub-No. 1).

Under the Commission's rules of practice at 49 CFR 1180.4(g)(2)(ii), this notice and the notices in Finance Docket No. 32562 and Finance Docket No. 32562 (Sub-No. 1), should have been published within 20 days of filings. It was recently discovered that, through oversight, the notices had not been published.

[2] The United Transportation Union filed a petition to revoke on September 1, 1994. That petition is currently pending.

[Finance Docket No. 32562 (Sub-No. 1)]

Soo Line Railroad Company d/b/a CP Rail System—Acquisition of Trackage Rights Exemption—Wisconsin and Calumet Railroad Company, Inc., and Wisconsin & Southern Railroad Company

Wisconsin [1] and Calumet Railroad Company, Inc. (WICT) and Wisconsin & Southern Railroad Company (WSOR), have agreed to grant non-exclusive overhead trackage rights to Soo Line Railroad Company d/b/a CP Rail System (CPRS), over a line of railroad (primary line), between milepost 138.58 +/− in Madison, WI to milepost 141.66 +/− near Middleton, WI, and a line segment extending from its junction with the primary line at milepost 140.0 +/− to milepost 167.06 +/− in Madison. The trackage rights will allow CPRS to continue to handle overhead traffic between Middleton and Madison, after the sale of CPRS's line of railroad between Middleton and Madison to WSOR.[2] The trackage rights were to become effective on or after August 29, 1994.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time.[3] The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Wayne C. Serkland, 1000 Soo Line Bldg., 105 South 5th St., Minneapolis, MN 55402.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: March 6, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–5947 Filed 3–9–95; 8:45 am]

BILLING CODE 7035–01–P

[1] Notices of Exemption were concurrently filed in *Soo Line Railroad Company d/b/a CP Rail System—Acquisition of Trackage Rights Exemption—Wisconsin and Calumet Railroad Company, Inc., Wisconsin & Southern Railroad Company and Wisconsin River Transit Commission d/b/a Wisconsin River Rail Transit Commission*, Finance Docket No. 32562, and *Soo Line Railroad Company d/b/a CP Rail System—Acquisition of Trackage Rights Exemption—Wisconsin and Calumet Railroad Company, Inc., Wisconsin & Southern Railroad Company and Wisconsin River Transit Commission d/b/a Wisconsin River Rail Transit Commission*, Finance Docket No. 32562 (Sub-No. 2).

Under the Commission's rules of practice at 49 CFR 1180.4(g)(2)(ii), this notice and the notices in Finance Docket No. 32562 and Finance Docket No. 32562 (Sub-No. 2), should have been published in the **Federal Register** within 20 days of filings. It was recently discovered that, through oversight, the notices had not been published.

[2] WSOR filed a petition for exemption to purchase CPRS's line of railroad between Middleton and Madison, WI, in *Wisconsin & Southern Railroad Co.—Purchase, Lease and Operation Exemption—Canadian Pacific Rail Services*, Finance Docket No. 32546 (ICC served Aug. 5, 1994).

[3] The United Transportation Union filed a petition to revoke on September 1, 1994. That petition is currently pending.

[Finance Docket No. 32562]

Soo Line Railroad Company d/b/a CP Rail System—Acquisition of Trackage Rights Exemption [1]—Wisconsin and Calumet Railroad Company, Inc., Wisconsin & Southern Railroad Company and Wisconsin River Transit Commission d/b/a Wisconsin River Rail Transit Commission

Wisconsin and Calumet Railroad Company, Inc. (WICT), Wisconsin & Southern Railroad Company (WSOR) and Wisconsin River Transit

[1] Notices of Exemption were concurrently filed in *Soo Line Railroad Company d/b/a CP Rail System—Acquisition of Trackage Rights Exemption—Wisconsin and Calumet Railroad Company, Inc., and Wisconsin & Southern Railroad Company, Finance Docket No. 32562 (Sub-No. 1), and Soo Line Railroad Company d/b/a CP Rail System—Acquisition of Trackage Rights Exemption—Wisconsin and Calumet Railroad Company, Inc., Wisconsin & Southern Railroad Company and Wisconsin River Transit Commission d/b/a Wisconsin River Rail Transit Commission*, Finance Docket No. 32562 (Sub-No. 2).

Under the Commission's rules of practice at 49 CFR 1180.4(g)(2)(ii), this notice and the notices in Finance Docket No. 32562 (Sub-No. 1) and Finance Docket No. 32562 (Sub-No. 2), should have been published in the **Federal Register** within 20 days of filings. It was recently discovered that, through oversight, the notices had not been published.

Commission d/b/a Wisconsin River Rail Transit Commission (WRRTC) have agreed to grant non-exclusive overhead trackage rights and certain industry access to Soo Line Railroad Company d/b/a CP Rail System (CPRS), over and upon WRRTC's line of railroad (owned in conjunction with the Wisconsin Department of Transportation and leased and operated by WICT and WSOR). The trackage is located between Madison, WI, milepost 138.58 +/− and a connection with the Chicago and North Western Transportation Company (CNW)[2] at milepost 48.80 +/− in Janesville, WI. The trackage rights will (1) allow CPRS access to WRRTC's lines and WICT's and WSOR's leased trackage between Madison and a connection with the CNW in Janesville, and (2) offer CPRS an alternative and additional route for handling traffic between Madison and Janesville. The trackage rights were to become effective on or after August 29, 1994.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time.[3] The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Wayne C. Serkland, 1000 Soo Line Bldg., 105 South 5th St., Minneapolis, MN 55402.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Decided: March 6, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–5945 Filed 3–9–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32664]

The Georgia Department of Transportation—Acquisition Exemption—Georgia Central Railway

The State of Georgia Department of Transportation (GDOT), a noncarrier, has filed a notice of exemption to acquire 33.65 miles of railroad and right-of-way from Georgia Central Railway (GC) between milepost 577.85 at Vidalia and milepost 611.50 at Helena, in Dodge and Telfair Counties, GA.[1] Under a new lease arrangement with GDOT, GC will continue to operate the line. The lease provides for GC to operate and maintain the line, including the crossing agreement with Norfolk Southern Railway at Helena, on an abandoned segment of track.

Consummation of the proposed transaction is scheduled to take place on or after March 8, 1995.

Any comments must be filed with the Commission and served on: George P. Shingler, 40 Capitol Square, Atlanta, GA 30334.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 6, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–5944 Filed 3–9–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 94–50]

Michael Schumacher; Denial of Registration

On May 18, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Michael Schumacher, General Television (Respondent), of Urbana, Illinois, proposing to deny his application for a DEA Certificate of Registration as a manufacturer. 21 U.S.C. 823(a) (1992). The statutory basis for the Order to Show Cause was Respondent's lack of authorization to manufacture controlled substances in the State of Illinois. 21 U.S.C. 824(a)(3). In addition, the Order to Show Cause alleged that Respondent's registration would be inconsistent with the public interest, as the term is used in 21 U.S.C. 823(a) and 824(a)(4).

The Order to Show Cause was sent to Respondent's registered location by registered mail on May 18, 1994, and on June 10, 1994, Respondent filed a request for hearing with the Office of Administrative Law Judges. The matter was docketed before Administrative Law Judge Mary Ellen Bittner. This case was then consolidated with Docket No. 94–37 wherein Normaco of Delaware, Inc. (Normaco) had requested a hearing pursuant to 21 CFR 1301.43(a) (1994), in response to a notice of Respondent's application for registration as a bulk manufacturer of various Schedule II controlled substances (58 FR 60061 (1994)). On June 28, 1994, the administrative law judge granted Normaco's request to withdraw from this matter.

Counsel for the Government filed a motion for summary disposition on July 18, 1994, based on an order of the Illinois Department of Professional Regulation (DPR), dated July 10, 1992, denying Respondent's application for a state license to manufacture and conduct medical research under the Illinois Controlled Substances Act. Respondent did not file a response to the Government's motion.

On September 29, 1994, the administrative law judge issued her opinion and recommended decision. The administrative law judge granted the Government's motion for summary disposition finding that Respondent is not eligible for a DEA registration as a bulk manufacturer of Schedule I and II controlled substances and therefore a hearing would serve no purpose. The administrative law judge found that Respondent currently lacks state authorization to handle controlled substances in the State of Illinois because Respondent was denied a state license to manufacture controlled substances by the Illinois DPR on July 10, 1992. As the administrative law judge noted, DPR's denial was based on findings that Respondent was unaware what substances were controlled under Illinois law, that Respondent did not have a background in those sciences pertaining to controlled substances, and that Respondent failed to demonstrate that its application should be granted. The administrative law judge noted that 21 U.S.C. 823(a), the provision requiring registration of manufacturers of Schedule I and II controlled substances, contains no express threshold requirement of state authorization. Nonetheless, she concluded that where as here state law requires manufacturers of controlled substances to obtain a state

[2] Effective May 6, 1994, the Chicago and North Western Transportation Company changed its name to the ''Chicago and North Western Railway Company''.

[3] The United Transportation Union filed a petition to revoke on September 1, 1994. That petition is currently pending.

[1] GDOT proposes to acquire fee title from GC and rehabilitate the line for the purpose of continued rail operations. GC will sell the line to GDOT by quitclaim deed. GC's residual common carrier obligation as lessor will be transferred to GDOT and GC will have no common carrier obligation once the transaction has been completed.

license, it would be pointless to grant a Federal registration when Respondent lacked state authority. The administrative law judge then recommended that in those cases where an applicant for a DEA registration as a manufacturer of controlled substances has had a state license or registration denied, suspended, revoked, or restricted by a state regulatory agency with jurisdiction to take that action, DEA should not grant greater authority to handle controlled substances than has been granted by the state. Consequently, the administrative law judge granted Government's motion for summary disposition and recommended that Respondent's application for a DEA Certificate of Registration be denied. Neither party filed exceptions to the opinion and recommended decision. On November 2, 1994, the administrative law judge transmitted the record to the Deputy Administrator.

The Deputy Administrator has carefully considered the entire record in this matter and hereby adopts the administrative law judge's opinion and recommended decision. The Deputy Administrator, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth. It is undisputed that Respondent is not authorized to manufacture controlled substances in the State of Illinois. Because 21 U.S.C. 824(a)(3) provides that denial or revocation of a state license or registration constitutes grounds to revoke a DEA registration, if Respondent were granted a registration, DEA would immediately have grounds to revoke it. It is well-settled that the agency need not grant a license on one day only to revoke it the next. Kuen H. Chen, 58 FR 65401 (1993) (quoting Serling Drug Co. and Detroit Prescription Wholesaler, Inc., 40 FR 1118, 11919 (1975). Further, inasmuch as DEA must consider ''compliance with applicable State and local law'' when determining whether to grant a DEA registration to manufacture controlled substances, 21 U.S.C. 823(a)(2), DEA's grant of a registration to Respondent would put him in jeopardy of Illinois law. Finally, despite the lack of a state authority threshold for manufacturer registrations, the Deputy Administrator concludes that, inasmuch as Illinois had denied Respondent a state license, DEA cannot grant Respondent's application for a DEA Certificate of Registration. *Cf.* Nathaniel S. Lehrman, M.D., 59 FR 44780 (1994) (holding that DEA has consistently held that it cannot maintain the registration of a practitioner who is not authorized to handle controlled substances in the state in which he practices); accord Franz A. Arakaky MD., 59 FR 42074 (1994); Elliott Monroe, M.D., 57 FR 23246 (1992).

The Deputy Administrator concurs with the administrative law judge's granting of the Government's motion for summary disposition. In the absence of a question of material fact, a plenary adversary administrative proceeding is not required. Philip E. Kirk, M.D., 48 FR 32887 (1983), *aff'd sub nom Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984); *Alfred Tennyson Smurthwaite, N.D.*, 43 FR 11873 (1978); see also *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO*, 549 F.2d 634 (9th Cir. 1977); *U.S.* v. *Consolidated Mines and Smelting Co. Ltd.*, 44 F.2d 432, 453 (9th Cir. 1971).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Michael Schumacher, General Television, be, and it hereby is, denied. This order is effective April 10, 1995.

Dated: March 3, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–5833 Filed 3–9–95; 8:45 am]

BILLING CODE 4410–09–M

Office of Special Counsel for Immigration Related Unfair Employment Practices

Immigration Related Employment Discrimination Public Education Grants

AGENCY: Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, Department of Justice.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The Office of Special Counsel for Immigration Related Unfair Employment Practices (''OSC'') announces the availability of up to $1.5 million for grants to conduct public education programs about the rights afforded potential victims of employment discrimination and the responsibilities of employers under the antidiscrimination provision of the Immigration and Nationality Act (INA), 8 U.S.C. 1324b.

It is anticipated that a number of grants will be competitively awarded to applicants who can demonstrate a capacity to design and successfully implement public education campaigns to combat immigration-related employment discrimination. Grants will range in size from $50,000 to $150,000.

OSC will accept proposals from applicants who have access to potential victims of discrimination or whose experience qualifies them to educate employers about the antidiscrimination provision of INA. OSC welcomes proposals from diverse nonprofit organizations such as local, regional or national ethnic and immigrants' rights advocacy organizations, trade associations, industry groups, professional organizations, or other nonprofit entities providing information services to potential victims of discrimination and/or employers. Applications will not be accepted from individuals or public entities, including state and local government agencies, and public educational institutions.

APPLICATION DUE DATE: April 24, 1995.

FOR FURTHER INFORMATION CONTACT: Patita McEvoy, Public Affairs Specialist, Office of Special Counsel for Immigration Related Unfair Employment Practices, 1425 New York Ave., NW., Suite 9000, PO Box 27728, Washington, DC 20038–7728. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired).

SUPPLEMENTARY INFORMATION: The Office of Special Counsel for Immigration Related Unfair Employment Practices of the Civil Rights Division of the Department of Justice announces the availability of funds to conduct public education programs concerning the antidiscrimination provisions of INA. Funds will be awarded to selected applicants who propose cost-effective ways of educating employers and/or members of the protected class, or to those who can fill a particular need not currently being met.

BACKGROUND: On November 6, 1986, President Reagan signed into law the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. No. 99–603, which amended the INA. Additional provisions were signed into law by President Bush in the Immigration Act (IMMACT 90) on November 29, 1990. IRCA and subsequently, IMMACT 90, makes hiring aliens without work authorization unlawful, and requires employers to verify the identity and work authorization of all new employees. Employers who violate this law are subject to sanctions, including fines and possible criminal prosecution.

During the debate on IRCA, Congress foresaw the possibility that employers, fearful of sanctions, would refuse employment to individuals simply

because they looked or sounded foreign. Consequently, Congress enacted Section 102 of IRCA, an antidiscrimination provision. Section 102 prohibits employers of four or more employees from discriminating on the basis of citizenship status or national origin in hiring, firing, recruitment or referral for a fee. Citizens and certain classes of work authorized individuals are protected from citizenship status discrimination. Protected non-citizens include permanent residents, temporary residents under the amnesty, the Special Agricultural Workers (SAWs) or the Replenishment Agricultural Workers (RAWs) programs, refugees and asylees who apply for naturalization within six months of being eligible to do so. Citizens and *all* work authorized individuals are protected from discrimination on the basis of national origin. However, this prohibition applies to employers with four to fourteen employees. National origin discrimination complaints against employers with fifteen or more employees remain under the jurisdiction of the Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964.

Congress created the OSC to enforce Section 102. OSC is responsible for receiving and investigating discrimination charges and, when appropriate, filing complaints with a specially designated administrative tribunal. OSC also initiates independent investigations of possible Section 102 violations.

While OSC has established a record of vigorous enforcement, studies by the U.S. General Accounting Office and other sources have shown that there is an extensive lack of knowledge on the part of protected individuals and employers about the antidiscrimination provisions. Enforcement cannot be effective if potential victims of discrimination are not aware of their rights. Moreover, discrimination can never be eradicated so long as employers are not aware of their responsibilities.

PURPOSE: OSC seeks to educate both potential victims of discrimination about their rights and employers about their responsibilities under the antidiscrimination provision of INA. Because previous grantees have developed a wealth of materials (*e.,g.*, brochures, posters, booklets, information packets, and videos) to educate these groups, OSC has determined that the focus of the program should be on the actual delivery of said education. More specifically, in keeping with the purpose of the grant program, OSC seeks proposals that will use *existing materials* effectively to educate large numbers of workers or employers about exercising their rights or fulfilling their obligations under the antidiscrimination provisions.

PROGRAM DESCRIPTION: The program is designed to develop and implement cost effective approaches to educate potential victims of employment discrimination about their rights and to educate employers about their responsibilities under INA's antidiscrimination provisions. Applications may propose to educate potential victims only, employers only, or both in a single campaign. *Program budgets must include the travel, lodging and other expenses necessary for at least one, but not more than two, program staff members to attend the mandatory OSC grantee training (2 days) held in Washington, D.C. at the beginning of the grant period (late Autumn).* Proposals should outline the flowing key elements of the program:

Part I: Targeted Population

The educational efforts under the grant should directed to (1) work authorized non-citizens who are protected individuals, since this groups is especially vulnerable to employment discrimination; (2) those citizens who are most likely to become victims of employment discrimination; and/or to (3) employers. The proposals should define the characteristics of the work authorized population or the employer group(s) targeted for the educational campaign, and the applicant's qualifications to credibly and effectively reach large segments of the campaign targets.

The proposals should also detail the reasons for targeting each group of protected individuals or employers by describing particular needs or other factors to support the selection. In defining the campaign targets and supporting the reasons for the selection, applicants may use studies, surveys, or any other sources of information of generally accepted reliability.

Part II: Campaign Strategy

We encourage applicants to devise effective and creative means of public education and information dissemination that are specifically designed to reach the widest possible targeted audience. Those applicants proposing educational campaigns addressing potential victims of discrimination should keep in mind that some of the traditional methods of public communication may be less than optimal for educating members of national or linguistic groups that have limited community-based support and communication networks.

Proposals should discuss the components of the campaign strategy, detail the reasons supporting the choice of each component, and explain how each component will effectively contribute to the overall objective of cost-effective dissemination of useful and accurate information to a wide audience of protected individuals or employers. Discussions of the campaign strategies and supporting rationale should be clear, concise, and based on sound evidence and reasoning.

Since there presently exists a wealth of materials for use in educating the public, proposals should include in their budgets the costs for printing from camera-ready materials received from OSC or from current/past OSC grantees. To the extent that applicants believe the development of original materials particularly suited to their campaign is necessary, their proposal should articulate in detail the circumstances requiring the development of such materials. All such materials *must* be approved by OSC to ensure legal accuracy and proper emphasis prior to production. It should be noted that proposed revisions/translations of OSC approved materials must also be submitted for clearance. All information distributed should also include mention of the OSC as a source of assistance, information and action, and the correct address and telephone numbers of the OSC (including the toll-free and TDD toll-free numbers for the hearing impaired).

Part III: Evaluation of the Strategy

One of the central goals of this program is determining what public education strategies are most effective and thus, should be included in future public education efforts.

Therefore, it is crucial that the methods of evaluating the campaign strategy and public education materials and their results be carefully detailed. A full evaluation of a project's effectiveness is due within 60 days of the conclusion of a campaign.

SELECTION CRITERIA: The final selection of grantees for award will be made by the Special Counsel for Immigration Related Unfair Employment Practices.

Proposals will be submitted to a peer review panel. OSC anticipates seeking assistance from sources with specialized knowledge in the areas of employment and immigration law, as well as in evaluating proposals, including the agencies that are members of the Antidiscrimination Outreach Task Force: the Department of Labor, the

Equal Employment Opportunity Commission, the Small Business Administration, and the Immigration and Naturalization Service. Each panelist will evaluate proposals for effectiveness and efficiency with emphasis on the various factors enumerated below. The panel's results are advisory in nature and not binding on the Special Counsel. Letters of support, endorsement, or recommendation will not be accepted or considered.

In determining which applications to fund, OSC will consider the following (based on a one-hundred point scale):

1. Program Design (50 points)

Sound program design and cost effective strategies for educating the targeted population are imperative. Consequently, areas that will be closely examined include the following:

a. Evidence of in-depth knowledge of the goals and objectives of the project. (15 points)

b. Selection and definition of the target group(s) for the campaign, and the factors that support the selection, including special needs, and the applicant's qualifications to effectively reach the target. (10 points)

c. A cost effective campaign strategy for educating targeted employers and/or members of the protected class, with a justification for the choice of strategy. (15 points)

d. The evaluation methods proposed by the applicant to measure the effectiveness of the campaign and their precision in indicating to what degree the campaign is successful. (10 points)

2. Administrative Capability (20 points)

Proposals will be rated in terms of the capability of the applicant to implement the targeting, public education and evaluation components of the campaign:

a. Evidence of proven ability to provide high quality results. (10 points)

b. Evidence that the applicant can implement the campaign, and complete the evaluation component within the time lines provides.

Note: OSC's experience during previous grant cycles has shown that a number of applicants choose to apply as a consortium of individual entities; or, if applying individually, propose the use of subcontractors to undertake certain limited functions. It is essential that these applicants demonstrate the proven management capability and experience to ensure that, as lead agency, they will be directly accountable for the successful implementation, completion, and evaluation of the project. (10 points)

3. Staff Capability (10 points)

Applictions will be evaluated in terms of the degree to which:

a. The duties outlined for grant-funded positions appear appropriate to the work that will be conducted under the award. (5 points)

b. The qualifications of the grant-funded positions appear to match the requirements of these positions. (5 points)

Note: If the grant project manager or other member of the professional staff is to be hired later as part of the grant, or should there be any change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time.

4. Previous Experience (20 points)

The proposals will be evaluated on the degree to which the applicant demonstrates that it has successfully carried out programs or work of a similar nature in the past.

ELIGIBLE APPLICANTS: This grant competition is open to nonprofit organizations that serve potential victims of discrimination and/or employers. Applications will not be accepted from individuals or public entities, including state and local government agencies, and public educational institutions.

GRANT PERIOD AND AWARD AMOUNT: It is anticipated that several grants will be awarded and will range in size from $50,000 to $150,000.

During evaluation, the panel will closely examine those proposals that guarantee maximum exposure and penetration in the employer or potential victims target populations. Thus, a campaign designed to reach a very large proportion of employers (or potential victims) in the state of Texas would take precedence over a campaign designed to reach a more limited number of employers (or potential victims) nationwide.

Publication of this announcement does not require OSC to award any specific number of grants, to obligate the entire amount of funds available, or to obligate any part thereof. The period of performance will be twelve months from the date of the grant award. Those grantees who successfully achieve their goals may be considered for supplementary funding for a second year based on the availability of funds.

APPLICATION DEADLINE: All applications must be received by 6:00 p.m. EDT, April 24, 1995 at the Office of Special Counsel for Immigration Related Unfair Employment Practices, 1425 New York Ave. NW., Suite 9000, PO. Box 27728, Washington, DC 20038–7728. Applications submitted via facsimile machine will not be accepted or considered.

APPLICATION REQUIREMENTS: Applicants should submit an original and two (2) copies of their complete proposal by the deadline established above. All submissions must contain the following items in the order listed below:

1. A completed and signed Application for Federal Assistance (Standard Form 424) and Budget Information (Standard Form 424A).

2. OJP Form 4061/6 (Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements).

3. An abstract of the full proposal, not to exceed one page.

4. A program narrative of not more than fifteen (15) double-spaced typed pages which include the following:

a. A clear statement describing the approach and strategy to be utilized to complete the tasks identified in the program description;

b. A clear statement of the proposed goals and objectives, including a listing of the major events, activities, products and timetables for completion;

c. The proposed staffing plan (NOTE: if the grant project manager or other professional staff member is to be hired later as part of the grant, or should there be a change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time); and

d. Description of how the project will be evaluated.

5. A proposed budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and a short narrative justification of each budgeted line item cost. If an indirect cost rate is used in the budget, then a copy of a current fully executed agreement between the applicant and the Federal cognizant agency must accompany the budget.

Note: Program budgets must include the travel, lodging and other expenses necessary for at least one, but not more than two, program staff members to attend the mandatory OSC grantee training (2 days) held in Washington, D.C. at the beginning of the grant period (late Autumn).

6. Copies of resumes for the professional staff proposed in the budget.

7. Detailed technical materials that support or supplement the description of the proposed effort should be included in the appendix.

In order to facilitate handling, please do not use covers, binders or tabs.

Application forms may be obtained by writing or telephoning: Office of Special

Counsel for Immigration Related Unfair Employment Practices, 1425 New York Ave. NW., Suite 9000 P.O. Box 27728, Washington, DC 20038–7728. (Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired).

Dated: March 6, 1995.

Approved:

William Ho-Gonzalez,

Special Counsel, Office of Special Counsel for Immigration Related Unfair Employment Practices.

[FR Doc. 95–5960 Filed 3–9–95; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Notice of Meetings and Agenda

The regular Spring meetings of the Business Research Advisory Council and its Committees will be held on March 29 and 30, 1995. All of the meetings will be held in the Conference Center of the Postal Square Building, 2 Massachusetts Avenue, NE., Washington, DC.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, March 29, 1995

10:00–11:30 a.m.—Committee on Price Indexes

1. Current CPI issues and plans
2. Other business

1:30–3:00 p.m.—Committee on Productivity and Foreign Labor

1. Proposed change in name of the committee
2. Review of recent developments in the Office of Productivity and Technology
3. New index number method for industry labor productivity data
4. New index number method for major sector labor productivity data
5. Chartbook on international labor statistics comparisons

3:30–5:00 p.m.—Committee on Employment Projections

1. Defense expenditures
2. Plans for further research on college graduates
3. Analysis of the implications of employment changes for the characteristics of jobs: the good jobs/bad jobs issue

Thursday, March 30, 1995

8:30–10:00 a.m.—Committee on Employment and Unemployment Statistics

1. The National Wage Record Database
2. America's Labor Market Information System (ALMIS)
3. Restart of the Mass Layoff Statistics (MLS) program
4. Plans for establishing a longitudinal database of ES–202 program establishments
5. American Statistical Association's recommendations for the improvement of the CES and ES–202 programs
6. Duration of unemployment
7. Elect Vice chairperson

10:30–12:00 p.m.—Council Meeting

1. Chairperson's opening remarks
2. Commissioner Abraham's address and discussion
3. Business session
4. Chairperson's closing remarks

1:30–3:30 p.m.—Committee on Compensation and Working Conditions

1. An initiative to redesign compensation statistics
2. Current and future changes to the Occupational Compensation Survey Program (OCSP) job list
3. The recent Employee Benefits Survey bulletin: a general overview
4. Surveys of Employer-Provided Training: an update

The meetings are open to the public. persons with disabilities wishing to attend should contact Constance B. DiCesare, Liaison, Business Research Advisory Council, at (202) 606–5887, for appropriate accommodations.

Signed at Washington, DC the 3rd day of March 1995.

Katharine G. Abraham,

Commissioner.

[FR Doc. 95–5917 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–24–M

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specific classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determinations, and modifications and supersede as decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest

in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., room s-3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA950001 (Feb. 10, 1995)
MA950002 (Feb. 10, 1995)
MA950003 (Feb. 10, 1995)
MA950007 (Feb. 10, 1995)
MA950008 (Feb. 10, 1995)
MA950009 (Feb. 10, 1995)
MA950010 (Feb. 10, 1995)
MA950017 (Feb. 10, 1995)
MA950018 (Feb. 10, 1995)
MA950019 (Feb. 10, 1995)
MA950020 (Feb. 10, 1995)
MA950021 (Feb. 10, 1995)

Volume II

Pennsylvania
PA950001 (Feb. 10, 1995)
PA950002 (Feb. 10, 1995)
PA950003 (Feb. 10, 1995)
PA950011 (Feb. 10, 1995)
PA950012 (Feb. 10, 1995)
PA950016 (Feb. 10, 1995)
PA950017 (Feb. 10, 1995)
PA950018 (Feb. 10, 1995)
PA950020 (Feb. 10, 1995)
PA950022 (Feb. 10, 1995)
West Virginia
WV950002 (Feb. 10, 1995)
WV950005 (Feb. 10, 1995)
WV950006 (Feb. 10, 1995)

Volume III

Kentucky
KY950004 (Feb. 10, 1995)
KY950025 (Feb. 10, 1995)
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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 3rd day of March 1995.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 95–5710 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of February, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,659; Johnson Controls Battery Group, Inc., Owosso, MI

TA–W–30,591; Pigeon Manufacturing, Bad Axe, MI

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–30,656; Becton Dickinson & Co., Franklin Lakes, NJ

Under the terms of the Trade Act of 1974, employment declines in activities supporting export sales cannot be used as the basis for certification.

TA–W–30,617; Shaw Pipe, Inc., Highspire, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–30,589; Fenestra Corp., Erie, PA

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–30,602, TA–W–30,603, TA–W–30,604, TA–W–30,605 TA–W–30,606, TA–W–30,607, TA–W–30,608, TA–W–30,609, TA–W–30,610; System, Shade/Allied, Inc., Green Bay, WI, Bellville, TX, Buena Park, CA, DePere, WI, Denison, TX, Gainesville, GA, Kent, WA, Lancaster, PA, Leipsic, OH

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations for Worker Adjustment Assistance

TA–W–30,650; Lynn Allison Manufacturing Co., Pittston, PA

A certification was issued covering all workers separated on or after January 5, 1994.

TA–W–30,729; Oxford of Belton, Belton, SC

A certification was issued covering all workers separated on or after February 3, 1994.

TA–W–30,683; Amphenol Aerospace, Sidney, NY

A certification was issued covering all workers separated on or after January 14, 1994.

TA–W–30,612; Bravo Fashions, Inc., Wilkes Barre, PA

A certification was issued covering all workers separated on or after December 22, 1993.

TA–W–30,735; Washington Public Power Supply System, Nuclear Projects, WPN–2, Richland, WA

TA–W–30,735 A & B Washington Public Power Supply System, Nuclear Projects, WPN–1, Richland, WA and WPN–3—Satsop, WA

A certification was issued covering all workers separated on or after January 27, 1994.

TA–W–30,594; General Motors Corp., Powertrain Danville Plant, Danville, IL

A certification was issued covering all workers separated on or after December 16, 1993.

TA–W–30,586; Columbus Sportswear, Columbus, IN

TA–W–30,587; Indiana Sportswear, Clinton, IN

A certification was issued covering all workers separated on or after December 15, 1993.

TA–W–30,615; Colonial Shoe, Inc., Littlestown, PA

TA–W–30,616; Colonial Shoe, Inc., Salunga, PA

A certification was issued covering all workers separated on after December 20, 1993.

TA–W–30,757; Xerox Corp., Oak Brook, IL

A certification was issued covering all workers separated on or after October 20, 1993.

TA–W–30,589; Garfield Sportswear, Garfield, NJ

A certification was issued covering all workers separated on or after October 31, 1993.

TA–W–30,705; M.W. Carr Co., Inc., Somerville, MA

A certification was issued covering all workers separated on or after January 20, 1994.

TA–W–30,740; Wirekraft Industries, Marion, OH

A certification was issued covering all workers separated on or after February 9, 1994.

TA–W–30,564; Brookshire Knitting Mils, Dallas, TX

A certification was issued covering all workers separated on or after December 1, 1993.

TA–W–30,592; Santa Fe Minerlas, Inc., Dallas, TX and Operating in Following Other States: A; AR, B; LA, C; OK

A certification was issued covering all workers separated on or after December 13, 1993.

TA–W–30,640; Hanel Lumber Co., Inc., Hood River, OR

A certification was issued covering all workers separated on or after December 29, 1993.

TA–W–30,642; Malco Division of UNI—Star Industries, Montgomeryville, PA

A certification was issued covering all workers separated on or after December 29, 1993.

TA–W–30,715; Hanover Shoe Co., Marlington, WV

TA–W–30,716; Hanover Shoe Co., Franklin, WV

A certification was issued covering all workers separated on or after January 25, 1994.

TA–W–30,670, TA–W–30,671, TA–W–30,672; TA–W–30,673, TA–W–30–674; KBM Well Service, Inc., Williston, ND, Tioga, ND, Keene, ND, Mohall, ND and Lignite, ND

A certification was issued covering all workers separated on or after January 2, 1994.

TA–W–30,590; Rose Marie Reid (AKA Imerman, Inc.), New York, NY

A certification was issued covering all workers separated on or after December 10, 1993.

TA–W–30,695; Malcolm Clothing Corp., Passaic, NJ

A certification was issued covering all workers separated on or after February 25, 1995.

TA–W–30,619; Warnaco, Inc., Long Island City, NY

A certification was issued covering all workers separated on or after December 23, 1993.

TA–W–30,717; 3M Co., Freehold, NJ

A certification was issued covering all workers separated on or after January 26, 1994.

TA–W–30,614; Yocom Knitting Co., Stowe, PA

TA–W–30,614A; Linden Knitting Wear, Mohrsville, PA

A certification was issued covering all workers separated on or after December 22, 1993.

TA–W–30,570; Chevron USA Production Co., Houston, TX and Operating at the Following Other Locations: A; AL, B; CA, C; CO, E; KS, F; LA, G; MS, H; NM, I; ND, J; OK, K; TX, L; UT, M; WY

A certification was issued covering all workers separated on or after July 9, 1994.

TA–W–30,570 D; Chevron USA Production Co., Washington, DC

A certification was issued covering all workers separated on or after December 19, 1993.

TA–W–30,758; W.E. Kautenberg Co., Freeport, IL

A certification was issued covering all workers separated on or after January 25, 1994.

TA–W–30,626; A-Tek, Brainerd, MN

A certification was issued covering all workers separated on or after December 21, 1993.

TA–W–30,597; Fisher Scientific Co., Indiana, PA

A certification was issued covering all workers separated on or after February 24, 1995.

TA–W–30,631; Melnor, Inc., Moonachie, NJ

A certification was issued covering all workers separated on or after December 21, 1993.

TA–W–30,679; Mr. Carmen, Inc., Selinsgrove, PA

A certification was issued covering all workers separated on or after January 12, 1994.

TA–W–30,666; Dick Lynott, Inc., dba English Square, Duluth, GA

A certification was issued covering all workers separated on or after January 12, 1994.

TA–W–30,699; Novelle Industries, Inc., Miami, FL

A certification was issued covering all workers separated on or after January 18, 1994.

TA–W–30,601; Marktill Corp., Rome Plow Div., Cedartown, GA

A certification was issued covering all workers separated on or after August 1, 1993.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determination regarding eligibility to apply for NAFTA–TAA issued during the month of February, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(A) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(B) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased;

(C) That the increase in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(2) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFT–TAA

NAFTA–TAA–00341; Statler Tissue Co., Augusta, ME

The investigation revealed that criteria (3) and criteria (4) were not met. There was no shift in production from the subject facility to Mexico or Canada during the period under investigation, nor did the company import tissue from Mexico or Canada. The investigation findings show that customer imports from Canada or Mexico did not contribute importantly to worker separations at the subject firm.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–00333; A-Tek, Brainerd, MN

A certification was issued covering all workers at A-Tek, Brainerd, MN separated on or after January 18, 1994.

NAFTA–TAA–00338; Burns Philip Food Fleischmann's Yeast, Inc., Sumner, WA

A certification was issued covering all workers of Burns Philip Food's Fleischmann's Yeast, Inc., Sumner, WA separated on or after January 17, 1994.

NAFTA–TAA–00337; Allied Signal, Inc., Filter & Spark Plugs Group, Greenville, OH

A certification was issued covering all workers of Allied Signal, Inc., Filter and Spark Plugs Group, Greenville, OH separated on or after January 10, 1994.

NAFTA–TAA–00355; Luken's Medical Corp., Rio Rancho, NM

A certification was issued covering all workers of Luken's Medical Corp., Rio Rancho, NM separated on or after January 17, 1994.

I hereby certify that the aforementioned determinations were issued during the month of February, 1995. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 6, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5912 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,620]

Woodward Governor Company; Stevens Point, WI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 14, 1995 applicable to the workers engaged in employment related to the production of aircraft fuel controls at the subject firm.

The certification notice will soon be published in the **Federal Register**.

At the request of the State Agency and the company, the Department reviewed the certification for workers of the subject firm. The findings show that some production was in hydromatic controls. The workers were not entirely separately identifiable by product line and the plant will close in 1995. Accordingly, the Department is amending the certification to include all

workers at Woodward Governor Company in Stevens Point, Wisconsin.

The intent of the Department's certification is to include all workers who were adversely affected at Stevens Point, Wisconsin by increased imports.

The amended notice applicable to TA–W–30,620 is hereby issued as follows:

''All workers of Woodward Governor Company, Stevens Point, Wisconsin who became totally or partially separated from employment on or after December 22, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 3rd day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5910 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

TA–W–30,089; Sara Lee Knit Products, Cleveland Avenue, Martinsville, VA; TA–W–30,089A; Sara Lee Knit Products, Gretna, VA; TA–W–30,089B; Sara Lee Knit Products, Quaker Meadows Plant, Morganton, NC; TA–W–30,090; Sara Lee Knit Products, Midway Georgia Plant, Midway, GA; TA–W–30,091; Sara Lee Knit Products, Cloverleaf Knitting, Martinsville, VA; TA–W–30,092; Sara Lee Knit Products, Central Distribution, Martinsville, VA

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance applicable to workers of Sara Lee Knit Products at the Cleveland Avenue plant in Martinsville, Virginia; Midway, Georgia; Cloverleaf Knitting in Martinsville, Virginia; and the Distribution Center in Martinsville, Virginia. The certification notice was issued on August 26, 1994 and was published in the **Federal Register** on October 4, 1994 (59 FR 50625). The certification was amended on September 16, 1994 to include workers at the Gretna, Virginia plant of Sara Lee Knit Products.

At the request of the company, the Department again reviewed the certification for workers producing men's, women's and children's fleecewear at the subject firm. The findings show that the Morganton plant ceased operations on February 17, 1995 and its production and sales data were included in the corporate statistics provided by Sara Lee.

The amended notice applicable to TA–W–30,089 through TA–W–30,092 is hereby issued as follows:

''All workers of Sara Lee Knit Products, Martinsville, Virginia (TA–W–30,089) Gretna, Virginia (TA–W–30,089A) Morganton, North Carolina (30,089B) Midway, Georgia (TA–W–30,090); Cloverleaf Knitting, Martinsville, Virginia (TA–W–30,091) and the Central Distribution Center, Martinsville, Virginia (TA–W–30,092), respectively, who were engaged in employment related to the production of men's, women's and children's fleecewear and provided administrative, office, warehousing and distribution services who became totally or partially separated from employment on or after June 27, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 23rd day of February, 1995.

Victor J. Trunzo,

Program Director, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5909 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,332]

Intera Information Technologies, Inc.; Denver, CO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on February 2, 1995 applicable to all workers of the subject firm.

The certification notice was published in the **Federal Register** on February 14, 1995 (60 FR 8417).

At the request of one of the workers, the Department reviewed the certification for workers of the subject firm. Some workers were laid off a few months prior to the impact date.

The investigation findings show that the Department can go back to February 2, 1993 in setting its impact date.

Accordingly, the Department is deleting its previous impact date of September 2, 1993 and inserting a new impact date of February 2, 1993.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports.

The amended notice applicable to TA–W–30,332 is hereby issued as follows:

''All workers of Intera Information Technologies, Inc., in Denver, Colorado who became totally or partially separated from employment on or after February 2, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC, this 23rd day of February 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5908 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 20, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 20, 1995.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 27th day of February, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articlesproduced
Hecla Mining Co (Wkrs)	Republic, WA	02/27/95	01/09/95	30,762	Gold and Silver.
Oxford of Hamlet (Co)	Hamlet, NC	02/27/95	02/17/95	30,763	Yound Men's Jackets.
Oxford of Royston (Co)	Royston, GA	02/27/95	02/17/95	30,764	Young Men's Jackets.
Dexter Shoe Company (Wkrs)	Dexter, ME	02/27/95	02/10/95	30,765	Leather Footwear.
Dexter Shoe Company (Wkrs)	Newport, ME	02/27/95	02/10/95	30,766	Leather Footwear.
Fairchild Fasteners USA (Wkrs)	City of Industry, CA	02/27/95	02/15/95	30,767	Steel & Titanium Aerospace Fasteners.
Kelly Oil Corporation (Co/Wks)	Houston, TX	02/27/95	02/07/95	30,768	Oil and Gas.
Chevron Pipeline Co. (Wkrs)	Crane, TX	02/27/95	02/14/95	30,769	Crude Oil.
AT&T Communications (Wkrs)	Odessa, TX	02/27/95	02/09/95	30,770	Telephone Service.
Jantzen Inc. (Co)	Statesville, NC	02/27/95	02/16/95	30,771	Sweaters.
Anne Klein (Wkrs)	New York, NY	02/27/95	02/16/95	30,772	Ladies' Apparel.
Blanche Industries (Wkrs)	Blue Bell, PA	02/27/95	02/14/95	30,773	Ladies' Sleepwear.
Cleveland Twist Drill Co. (USWA)	Cranston, RI	02/27/95	02/13/95	30,774	Cutting Tools.
Swiss Maid Emblems (Wkrs)	Fairview, NJ	02/27/95	02/08/95	30,775	Patches and Emblems.
M-I Drilling Fluids Co (Wkrs)	Anchorage, AK	02/27/95	01/31/95	30,776	Drilling Fluids.
Ace Comb Co (BBF)	Boonville, AR	02/27/95	02/15/95	30,777	Combs and Brushes.
General Cable Corp. (USWA)	Woonsocket, RI	02/27/95	02/15/95	30,778	Electrical Cord.
KAO Infosystems Co (Wkrs)	Plymouth, MA	02/27/95	01/31/95	30,779	Floppy Computer Disk.
Rhone-Poulene Loctite VSI (Wkrs)	Troy, NY	02/27/95	02/10/95	30,780	Silicon Molds.
Names, Inc. (Wkrs)	Allentown, PA	02/27/95	01/16/95	30,781	Children's Sportswear.
Perry Manufacturing Co (Wkrs)	Elk Creek, VA	02/27/95	02/16/95	30,782	Ladies' Knit Apparel.

[FR Doc. 95–5907 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–29,920]

Goody Products, Inc.; Kearney, NJ; Operating in the Following States; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA–W–29,920A Alabama; TA–W–29,920B California; TA–W–29,920C Georgia; TA–W–29,920D Florida; TA–W–29,920E Kentucky; TA–W–29,920F Virginia; TA–W–29,920G Ohio; TA–W–29,920H Pennsylvania; TA–W–29,920I New York; TA–W–29,920J North Carolina; TA–W–29,920K Washington; TA–W–29,920L Connecticut

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 10, 1994, applicable to all workers of the subject firm. The Notice was published in the **Federal Register** on August 25, 1994 (59 FR 43867).

At the request of the State Agency, the Department again reviewed the certification for workers of the subject firm. New findings show that the subject firm's account representatives operating in the above cited states should be included under the certification.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–29,920 is hereby issued as follows:

''All workers of Goody Products, Inc., New Jersey and operating in the following States: Alabama, California, Georgia, Florida, Kentucky, Virginia, Ohio, Pennsylvania, New York, North Carolina, Washington and Connecticut engaged in employment related to the production and sale of hair barrettes who became totally or partially separated from employment on or after May 18, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed in Washington, DC, this 23rd day of February, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5906 Filed 3–6–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,738]

F. & M. Hat Company, Inc.; Denver, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 13, 1995 in response to a worker petition which was filed on behalf of workers at F. & M. Hat Company, Inc., Denver, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 28th day of February, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5905 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,649]

Dee Exploration, Inc.; Whitesboro, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 17, 1995 in response to a worker petition which was filed on behalf of workers at Dee Exploration, Inc., Whitesboro, Texas.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose.

Signed in Washington, DC this 3rd day of March, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5904 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

Public Meeting; Federal Committee on Apprenticeship

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given that the Federal Committee on Apprenticeship (FCA) will conduct an open meeting on March 28, 1995, at The Madison Hotel, 15th and M Street, NW., Arlington Room, Washington, DC. 20005.

The agenda will include:

8:30 a.m.—Call to Order
Administrative Matters
- Committee Operating Procedures (Reference Guide Package)
- Meeting Logistics

Approval of Minutes
Bureau of Apprenticeship and Training Report
Work Group Reports and Recommendations
- Reauthorization/funding—Carl Perkins Vocational Education Act
- Pilot test projects for promotion/expansion of registered apprenticeship
- National Registered Apprenticeship Award Program
- Regulatory Barriers to Expansion of Registered Apprenticeship
- National conference on Registered Apprenticeship
- Legislation affecting registered apprenticeship

National Association of State and Territorial Apprenticeship Directors (NASTAD) Report
National Association of Governmental Labor Officials (NAGLO) Report
Public Comments
Other Business
4:00 p.m.—Adjournment

The agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the FCA meeting.

Members of the public are invited to attend the proceedings. Individuals with disabilities should contact Marion M. Winters at (202) 219–5943 no later than *March 13, 1995,* if special accommodations are needed.

Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Designated Federal Official at any time prior to the meeting. His address is: Mr. Anthony Swoope, Director, Bureau of Apprenticeship and Training, ETA, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4649, Washington, DC 20210.

Fifteen duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate the nature of intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official by March 17. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Signed at Washington, D.C., this 6th day of March 1995.

Doug Ross,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 95–5911 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

Advisory Council on Unemployment Compensation; Notice of Hearings

SUMMARY: The Advisory Council on Unemployment Compensation (ACUC) was established in accordance with the provisions of the Federal Advisory Committee Act on January 24, 1992 (57 FR 4007, Feb. 3, 1992). Public Law 102–164, the Emergency Unemployment Compensation Act of 1991, mandated the establishment of the Council to evaluate the overall unemployment insurance program, including the purpose, goals, counter-cyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and other aspects of the program, and to make recommendations for improvement.

TIME AND PLACE: The hearings will be held from 3:30 p.m. to 5:30 p.m. on April 5 and from 3:45 p.m. to 5:30 p.m. on April 6 at the River Place Grand Heritage Hotel, 1000 River Place, Detroit, Michigan.

PUBLIC PARTICIPATION: The hearings will be open to the public. Seating will be available to the public on a first-come, first-served basis. Seats will be reserved for the media. Individuals with disabilities in need of special accommodations should contact the Designated Federal Official (DFO), listed below, at least 7 days prior to the hearing.

SUBMITTING WRITTEN STATEMENTS: Individuals or organizations wishing to submit written statements should send fifteen (15) copies to Esther R. Johnson, DFO, Advisory Council on Unemployment Compensation, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–4231, Washington, D.C. 20210. Statements must be received not later than March 22, 1995.

PRESENTING ORAL STATEMENTS: Individuals or organizations wishing to present oral statements should send a written request to Ellen S. Calhoun, Advisory Council on Unemployment Compensation, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–4206, Washington, D.C. 20210. Requests for presenting oral statements should indicate a daytime phone number. Time slots will be assigned on a first-come, first-served basis. All such requests must be received not later than March 22, 1995.

FOR ADDITIONAL INFORMATION CONTACT: Esther R. Johnson, DFO, Advisory Council on Unemployment Compensation, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–4231, Washington, D.C. 20210. (202) 219–7831. (This is not a toll-free number.)

Signed at Washington, D.C., this 2nd day of March 1995.

Doug Ross,

Assistant Secretary of Labor.

[FR Doc. 95–5950 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

Advisory Council on Unemployment Compensation; Notice of Meeting

SUMMARY: The Advisory Council on Unemployment Compensation (ACUC) was established in accordance with the provisions of the Federal Advisory Committee Act on January 24, 1992 (57 FR 4407, Feb. 3, 1992). Public Law 102–164, the Emergency Unemployment Compensation Act of 1991, mandated the establishment of the Council to evaluate the overall unemployment insurance program, including the purpose, goals, counter-cyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and other aspects of the program, and to make recommendations for improvement.

TIME AND PLACE: The meeting will be held from 8:30 a.m. to 5:30 p.m. on April 5 and from 10:30 a.m. to 5:30 p.m. on April 6 at the River Place Grand Heritage Hotel, 1000 River Place, Detroit, Michigan.

AGENDA: The agenda for the meeting is as follows:

(1) Federal-State relationships in the unemployment insurance system;
(2) Administrative Funding;
(3) Appeals; and
(4) Experience Rating.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seating will be

available to the public on a first-come, first-served basis. Seats will be reserved for the media. Individuals with disabilities in need of special accommodations should contact the Designated Federal Official (DFO), listed below, at least 7 days prior to the meeting.

FOR ADDITIONAL INFORMATION CONTACT:

Esther R. Johnson, DFO, Advisory Council on Unemployment Compensation, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210. (202) 219–7831. (This is not a toll-free number.)

Signed at Washington, DC, this 2nd day of March 1995.

Doug Ross,

Assistant Secretary of Labor.

[FR Doc. 95–5949 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00343]

Woodward Governor Co., Stevens Point, WI; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on January 23, 1995 in response to a petition filed on behalf of workers at Woodward Governor Company in Stevens Point, Wisconsin.

On March 3, 1995 an amendment was made to NAFTA–TAA–00319 to include all workers of Woodward Governor Company in Stevens Point, Wisconsin.

Because the subject workers have been included in the amendment certification of NAFTA–TAA–00319, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 3rd day of March 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5916 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00352, 00352A]

Washington Public Power Supply System Nuclear Project, SATSOP, and Richland, WA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on January 27, 1995 in response to a petition filed on behalf of workers at Washington Public Power Supply WNP–1 located in Richland and WNP–3 located in Satsop, Washington.

The investigation revealed that workers of Washington Public Power Supply were certified on January 13, 1995, based on increased imports of articles like or directly competitive and contributed importantly to the declines in sales and production and to total or partial separation of workers at the affiliated companies. On February 21, 1995 an amendment was made to NAFTA–TAA–00302 to include all workers of Washington Public Power Supply WNP–1 located in Richland and WNP–3 located in Satsop, Washington.

Because the subject workers at WNP–1 and WNP–3 have been included in the amendment certification of NAFTA–TAA–00302, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 24th day of February 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5915 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00168, 00168A, 00168B]

Sara Lee Knit Products, Martinsville, VA, Gretna, VA, Morganton, NC; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Titlte II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on August 5, 1994, applicable to all workers of the several plants and facilities of Sara Lee Knit Products in Martinsville, Virginia.

At the request of the company the Department reviewed the certification for workers of the subject firm. New findings show that the production at Sara Lee Knit Products in Gretna, Virginia and Morganton, North Carolina was intergrated with that of Martinsville.

Other findings show that company imports from Mexico increased in the first six months of 1994 compared to the same period in 1993. Production ceased at Gretna in September 1994 and at Morganton in February, 1995 when all workers were laid off.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports.

Accordingly, the Department is amending the Martinsville certification to include workers at Gretna, Virginia and Morganton, North Carolina.

The amend notice applicable to NAFTA–00168 is hereby issued as follows:

All workers of the Martinsville, Virginia plants of Sara Lee Knit Products and the Gretna, Virginia and Morganton, North Carolina plants of Sara Lee Knit Products who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1994.

Signed at Washington, DC, this 3rd day of March 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5914 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00282; 00282A]

Tecnol Medical Products, Inc. Sports Supports, Inc., Division Konawa, OK, and Express Temporary Services, Inc. ADA, OK; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on December 22, 1994, applicable to the workers of the Sports Supports, Inc., a Division of Tecnol Medical Products, Inc., located in Konawa, Oklahoma. The certification notice was published in the **Federal Register** on January 20, 1995 (60 FR 4197).

At the request of the State Agency, the Department is amending the certification to include leased employees from Express Temporary Services, Inc., Ada, Oklahoma who were

employed exclusively at Tecnol Medical Products, Inc., Sports Supports, Inc., Division in Konawa, Oklahoma in the production of backbelts and braces.

The intent of the Department's certification is to include all workers at Tecnol Medical Products' Sports Supports Division, Konawa, Oklahoma including leased workers who were affected by the shift in production of backbelts and braces to Mexico.

The amended notice applicable to NAFTA—00282 is hereby issued as follows:

All workers of the Sports Supports Division of Tecnol Medical Products, Inc., Konawa, Oklahoma and leased workers from Express Temporary Services, Inc., Ada, Oklahoma engaged in employment related to the production of backbelts and braces and who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of February, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–5913 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

AmeriCorps*USA National Direct, Application Assistance

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National Service (the Corporation) will provide application technical assistance to AmeriCorps*USA National Direct new and renewal applicants through a series of meetings and conference calls during the month of March. During these meetings and calls, Corporation staff will answer questions related to the application guidelines. These meetings and calls will not serve as an opportunity for prospective applicants to obtain individual feedback on proposal ideas. The Corporation staff will assume that conference call participants and those attending meetings have read the application guidelines thoroughly.

DATES: Renewal applicants must register by 5:00 pm Eastern Standard Time, Wednesday, March 15, 1995. New Applicants must register by 5:00 pm Eastern Standard Time, Tuesday, March 14, 1995.

FOR FURTHER INFORMATION CONTACT: Renewal Applicants should contact Demetri Moshoyannis, The Corporation for National Service, Room 9509–A, 1201 New York Avenue, N.W., Washington, D.C. 20525; (202) 606–5000 x. 446. New applicants should contact David Premo, The Corporation for National Service, Room 8612–C, 1201 New York Avenue, N.W., Washington, D.C. 20525; (202) 606–5000 x. 278.

SUPPLEMENTARY INFORMATION:

I. Renewal Applicants

The Corporation will provide application technical assistance via a series of meetings and conference calls during March. The meetings and conference calls are scheduled for the following times:

Date	Time	Type of assistance	Location
March 16, 1995	2:00pm–5:00pm	Meeting	1201 New York Ave., N.W., Room 8410.
March 17, 1995	3:00pm–5:00pm	Conference Call	NA.
March 21, 1995	3:00pm–5:00pm	Conference Call	NA.
March 22, 1995	12:00pm–2:00pm	Conference Call	NA.

If you would like to attend a meeting or participate in a conference call, please call Demetri Moshoyannis at (202) 606–5000 ext. 446, or fax your response to (202) 565–2786.

II. New Applicants

The AmeriCorps*USA National Direct program provides grants to national nonprofits, federal agencies, professional corps programs and multi-state programs to establish AmeriCorps*USA programs. The Corporation is offering the following application technical assistance for new programs:

Date	Time	Type of assistance	Location
March 16, 1995	9:30am–11:00am	Meeting	Truman Room, White House Conference Center.
March 17, 1995	12:00pm–2:00pm	Conference Call	NA.
March 21, 1995	12:00pm–2:00pm	Conference Call	NA.
March 22, 1995	3:00pm–5:00pm	Conference Call	NA.

If you are interested in attending the meeting or participating in a conference call please contact David Premo at The Corporation for National Service, Room 8612–C, 1201 New York Avenue, N.W., Washington, D.C. 20525; (202) 606–5000 x. 278, before 5:00 pm Eastern Standard time on Tuesday, March 14, 1995. For the meeting, participation will be limited to the seating capacity of the room. Availability will be on a first come-first serve basis for the meeting. These meetings and calls will not serve as an opportunity for prospective applicants to obtain individual feedback on proposal ideas. The Corporation staff will assume that conference call participants and those attending meetings have read the application guidelines thoroughly.

Authority: 42 U.S.C. 12501 et seq.

Dated: March 7, 1995.

Terry Russell,

General Counsel, Corporation for National Service.

[FR Doc. 95–6001 Filed 3–9–95; 8:45 am]

BILLING CODE 6050–28–P

NATIONAL LABOR RELATIONS BOARD

National Labor Relations Board Advisory Committee on Agency Procedure

AGENCY: National Labor Relations Board.

ACTION: Notice of meetings.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2

(1972), and 29 CFR 102.136 (1993), the National labor Relations Board has established a National Labor Relations Board Advisory Committee on Agency Procedure, the purpose of which is to provide input and advice to the Board and General Counsel on changes in Agency procedures that will expedite case processing and improve Agency service to the public. A notice of the establishment of the Advisory Committee was published in the **Federal Register** on May 13, 1994 (59 FR 25128).

As indicated in that notice, the Committee consists of two Panels which will meet separately, one composed of Union-side representatives and the other of Management-side representatives. Pursuant to Section 10(a) of FACA, the Agency hereby announces that the next meetings of the Advisory Committee Panels will be held on March 27 (Union-side) and March 29, 1995 (Management-side).

TIME AND PLACE: The meeting of the Union-side Panel of the Advisory Committee will be held at 10:00 a.m. on Monday, March 27, 1995, at the National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C., in the Board Hearing Room, Rm 11000. The meeting of the Management-side Panel of the Advisory Committee will be held at 10:00 a.m. on Wednesday, March 29, 1995, at the same location.

AGENDA: The agenda at the meetings of both Advisory Committee Panels will concern the Agency's representation casehandling procedures. Specific topics to be discussed will include: (1) The General Counsel's new time targets for expediting representation cases; (2) Suggestions for shortening or making more meaningful the time period from the filing of the representation petition to the hearing; (3) Issues which have been raised regarding the representation hearing process which were not involved or decided in *Angelica Healthcare Services Group, Inc.*, 315 NLRB No. 175 (1995); (4) Whether there is a need to shorten the time frame from the representation hearing to the election and ways that might be done; and (5) Whether post-election procedures could be made more efficient by adopting certain procedures.

PUBLIC PARTICIPATION: The meetings will be open to the public. As indicated in the Agency's prior notice, within 30 days of adjournment of the later of the Advisory Committee Panel meetings, any member of the public may present written comments to the Committee on matters considered during the meetings. Written comments should be submitted to the Committee's Management Officer and Designated Federal Official, Miguel A. Gonzalez, Executive Assistant to the Chairman, National Labor Relations Board, 1099 14th Street, N.W., Suite 11104, Washington, D.C. 20570–0001; telephone: (202) 273–2864.

FOR FURTHER INFORMATION CONTACT: Advisory Committee Management Officer and Designated Federal Official, Miguel A. Gonzalez, Executive Assistant to the Chairman, National Labor Relations Board, 1099 14th Street, N.W., Suite 11104, Washington, D.C. 20570–0001; telephone: (202) 273–2864.

Dated, March 6, 1995.

By direction of the Board:

Joseph E. Moore,

Acting Executive Secretary.

[FR Doc. 95–5948 Filed 3–9–95; 8:45 am]

BILLING CODE 7545–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Science, Technology & Society; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings.

Name: Advisory Panel for Science, Technology and Society (#1760).

Date and Time: March 31, 1995, 9:00 a.m. to 6:00 p.m.; April 1, 1995, 9:00 a.m. to 2:00 p.m.

Place: Galleria Park Hotel—The Palm Room/Second Floor, 191 Sutter Street, San Francisco, CA 94104, Telephone: (415) 781–3060—FAX (415) 433–4409.

Contact Person: Dr. Ronald J. Overmann, Program Director for Science Technology Studies, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 306–1743 Ext. 6989, Room 995.

Agenda: To review and evaluate science and technology studies proposals as part of the selection process for awards.

Date and Time: May 11–12, 1995—8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, Room 320—4201 Wilson Blvd.—Arlington, VA.

Contact Person: Dr. Rachelle D. Hollander, Program Director for Ethics and Values Studies, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 306–1743 Ext. 6991.

Agenda: To review and evaluate ethics and values studies proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the National Science Foundation for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: March 6, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–5903 Filed 3–9–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research (DMR).

Date and Time: March 30, 1995, 8:30 am to 5:00 pm.

Place: National Science Foundation, Conference Room 390, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. LaVerne Hess, Program Director, Electronic Materials, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306–1837.

Purpose of Meeting: To provide advice and recommendations concerning support for NSF Faculty Early Career Development (CAREER) Program.

Agenda: Evaluation of proposals.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

Dated: March 6, 1995.

[FR Doc. 95–5902 Filed 3–9–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Mathematical and Physical Sciences (#66).

Date and time: March 29–30, 1995.

Place: Room 1235, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. John H. Hopps, Jr., Director, Division of Materials Research,

Room 1065, National Science Foundation, Arlington, VA 22230. Telephone (703) 306–1810.

Purpose of Meeting: To provide input for consideration at the April 24–25, 1995, Meeting of the Advisory Committee for Mathematics and Physical Sciences.

Agenda:

March 29th 6:00–9:00 PM Working Dinner Session, Introductory Remarks (At Arlington Renaissance Hotel/Ballston, 950 North Stafford Street, Arlington, VA 22203).

March 30th 9:00 AM–5:00 PM Room 1235, National Science Foundation Discussion of Division of Materials Research management and operational issues, programmatic update, Fiscal Year 1997 planning issues, formulation of suggestions for future materials research and educational activities.

Dated: March 6, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–5901 Filed 3–9–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Economics, Decision and Management Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics, Decision and Management Sciences (#1759).

Date and Time: March 30, 31, and April 1, 1995.

Place: Rooms 920 and 970, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Daniel Newlon, Program Director for Economics, Division of Social, Behavioral and Economic Research, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22203. Telephone: (703) 306–1753.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Economics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 6, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–5900 Filed 3–9–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Computer and Computation Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Computer and Computation Research (#1192)

Date and Time: March 27, 1995, 8:30 a.m.–5 p.m.

Place: Room 1145 National Science Foundation, 4201 Wilson Blvd., Arlington, VA

Type of Meeting: Closed

Contact Person: Dr. Gerald L. Engel, Program Director, Special Projects, Computer and Computation Research, Room 1145, NSF, 4201 Wilson Blvd., Arlington, VA 22230, (703) 306–1910.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Phase 2 Small Business Innovation Research proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 6, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–5899 Filed 3–9–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. *Type of submission, new, revision or extension:* Revision.

2. *The title of the information collection:* Agreement States Program as authorized by section 274(b) of the Atomic Energy Act.

3. *The form number is applicable:* Not applicable.

4. *How often the collection is required:* One time or as needed.

5. *Who will be required or asked to report:* 29 States who have signed section 274(b) agreements with NRC.

6. *An estimate of the total number of responses:* 320.

7. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,000 hours (approximately 3 hours per response.)

8. *An indication of whether section 3504(h) Pub. L. 96–511 applies:* Not applicable.

9. *Abstract:* There are unique instances in which Agreement States must be surveyed on a one-time or as needed basis, i.e., in response to a specific incident, to gather information on licensing and inspection practices and other technical and statistical information. The results of such information requests, which are authorized under section 274(b) of the Atomic Energy Act, are utilized by the Commission for preparing responses to Congressional inquiries and requests for information from other sources.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C. 20037.

Comments and questions should be directed to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs (3150–0029), NEOB–10202, Office of Management and Budget, Washington, DC. 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Md., this 2nd day of March, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–5933 Filed 3–9–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–312 and 50–366]

Georgia Power Company, et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment Nos. 195 and 135 to Facility Operating License Nos. DPR–57 and NPF–5, respectively, issued to Georgia Power Company, et al. (the licensee), which revised the Technical Specifications (TS) and associated Bases for operation of the Edwin I. Hatch Nuclear Plant, Units 1 and 2, located in

Appling County, Georgia. The amendment is effective as of the date of issuance and shall be implemented within 150 days from the date of issuance.

The amendments replaced the current TS and associated Bases with a set based on the new Boiling Water Reactor (BWR) Owners Group Standard Technical Specifications, NUREG–1433, ''Standard Technical Specifications General Electric Plants, BWR/4,'' with one exception. The staff was unable to conclude, without further evaluation, that the proposed increase in the local power range monitor calibration interval is justified. Therefore, the change has not been incorporated in these amendments.

The application for the amendments (dated February 25, 1994), as supplemented July 8, August 8 and 31, September 23, October 19, November 1, 1994, and January 19, 1995 (two letters), complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The August 31, September 23, October 19, November 1, 1994, and January 19, 1995 (two letters) letters provided additional and clarifying information that did not change the initial proposed scope of the licensing action. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on August 18, 1994 (59 FR 42607). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendments will not have a significant effect on the quality of the human environment (59 FR 61349 dated November 30, 1994).

For further details with respect to the action see (1) the application for amendments dated February 25, 1994, as supplemented July 8, August 8 and 31, September 23, October 19, November 1, 1994, and January 19, 1995 (two letters), (2) Amendment Nos. 195 and 135 to License Nos. DPR–57 and NPF–5, respectively, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Rockville, Md, this 3rd day of March 1995.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–5937 Filed 3–9–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–281]

Virginia Electric and Power Company (Surry Power Station Unit No. 2); Exemption

I

Virginia Electric and Power Company (the licensee) is the holder of Facility Operating License No. DPR–37, which authorizes operation of Surry Power Station, Unit 2 (the facility), at a steady-state reactor power level not in excess of 2441 megawatts thermal. The facility is a pressurized water reactor located at the licensee's site in Surry County, Virginia. The license provides among other things, that it is subject to all rules, regulations, and Orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 requires the performance of three Type A containment integrated leakage rate tests (ILRTs) of the primary containment, at approximately equal intervals during each 10-year service period. The third test of each set shall be conducted when the plant is shut down for the 10-year inservice inspection program.

III

By letter dated February 14, 1995, the licensee requested temporary relief from the requirement to perform a set of three Type A tests at approximately equal intervals during each 10-year service period of the primary containment. The requested exemption would permit a one-time interval extension of the third Type A test by approximately 15 months (from the February 1995 refueling outage, to the May 1996 refueling outage) and would permit the third Type A test of the second 10-year inservice inspection period to not correspond with the end of the current American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) inservice inspection interval.

The licensee's request cites the special circumstances of 10 CFR 50.12, paragraph (a)(2)(ii), as the basis for the exemption. The licensee points out that the existing Type B and C testing programs are not being modified by this request and will continue to effectively detect containment leakage caused by the degradation of active containment isolation components as well as containment penetrations. It has been the experience at Surry Unit 2 during the Type A tests conducted from 1985 to date, that the Type A tests have not identified any significant sources of leakage in addition to those found by the Type B and C tests.

During operation, the Surry Unit 2 containment is maintained at a subatmospheric pressure (approximately 10.0 psia) which provides a good indication of the containment integrity. Technical Specifications require the containment to be subatmospheric whenever Reactor Coolant System temperature and pressure exceeds 350°F and 450 psig, respectively. Containment air partial pressure is monitored in the control room to ensure Technical Specification compliance. If the containment air partial pressure increases above the established Technical Specification limit, the unit is required to shut down.

IV

In the licensee's February 14, 1995, exemption request, the licensee stated that special circumstances 50.12(a)(2)(ii) is applicable to this situation, i.e., that application of the regulation is not necessary to achieve the underlying purpose of the rule.

Appendix J states that the leakage test requirements provide for periodic verification by tests of the leak tight integrity of the primary reactor containment. Appendix J further states that the purpose of the tests ''is to assure that leakage through the primary reactor containment shall not exceed the allowable leakage rate values as specified in the Technical Specifications or associated bases''. Thus, the underlying purpose of the requirement to perform Type A containment leak rate tests at intervals during the 10-year service period is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or becoming unknown.

The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. The NRC staff has noted that the licensee's record of ensuring a leak-tight containment has improved markedly since 1985. All ''as-found'' Type A tests since 1985 have passed and the results of the Type A testing have been confirmatory of the Type B and C tests which will continue to be performed. The licensee will perform the general containment inspection although it is only required by Appendix J (Section V.A.) to be performed in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary.

The Surry Unit 2 containment is of the subatmospheric design. During operation, the containment is maintained at a subatmospheric pressure (approximately 10 psia) which provides for constant monitoring of the containment integrity and further obviates the need for Type A testing at this time. If the containment air partial pressure exceeds the established Technical Specification limit, the unit must be shut down.

The NRC staff has also made use of a draft staff report, NUREG–1493, which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The integrated leakage rate test, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by local leakage rate tests (Type B and C). According to results given in NUREG–1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only 5 ILRT failures were found which local leakage rate testing could not detect. This is 3% of all failures. This study agrees well with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded $1.0L_a$. Of these, only nine were not due to Type B or C leakage penalties. The NEI data also added another perspective. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than $2L_a$; in one case the leakage was found to be approximately $2L_a$; in one case the as-found leakage was less than $3L_a$; one case approached $10L_a$; and in one case the leakage was found to be approximately $21L_a$. For about half of the failed ILRTs the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding to L_a (approximately $200L_a$, as discussed in NUREG–1493). Therefore, based on those considerations, it is unlikely that an extension of one cycle for the performance of the Appendix J, Type A test at Surry, Unit 2, would result in significant degradation of the overall containment integrity. As a result, the application of the regulation in these particular circumstances is not needed to achieve the underlying purpose of the rule.

Based on generic and plant specific data, the NRC staff finds the basis for the licensee's proposed exemption to allow a one-time exemption to permit a schedular extension of one cycle for the performance of the Appendix Type A test, provided that the general containment inspection is performed, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (60 FR 11997).

This Exemption is effective upon issuance and shall expire at the completion of the 1996 refueling outage.

Dated at Rockville, Maryland this 3rd day of March 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–5938 Filed 3–9–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–373 and 50–374]

Commonwealth Edison Co., LaSalle County Station, Units 1 and 2; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from Facility Operating License Nos. NPF–11 and NPF–18, issued to Commonwealth Edison Company (the licensee), for operation of the LaSalle County Station, Units 1 and 2, located in LaSalle County, Illinois.

Environmental Assessment

Identification of Proposed Action

Section III.D.1(a) of Appendix J to 10 CFR part 50 requires the performance of three Type A tests (overall integrated leakage rate tests) (ILRT), at approximately equal intervals during each 10-year service period, with the third test of each set being conducted when the plant is shut down for the 10-year plant inservice inspections. Section III.A6(b) of Appendix J to 10 CFR part 50 specifies additional requirements if two consecutive periodic Type A tests fail to meet the applicable acceptance criteria. The additional requirements entail performing Type A tests at each plant shut down for refueling or eighteen month interval, whichever occurs first, until two consecutive Type A tests meet the acceptance criteria, after which, the testing schedule of Section III.D can be resumed. LaSalle County Station, Unit 2, experienced Type A test failures for the ''as-found'' condition at the first, third and fourth refueling outages as a result of penalties from local leak rate test (LLRT) (Type B and C) failures. Pursuant to the requirements of Section III.A6(b), a Type A test was performed during the fifth refueling outage for Unit 2 and the results satisfied the applicable acceptance criteria. Without the requested exemption, another Type A test will need to be performed during the sixth refueling outage for Unit 2 (scheduled for early 1995) due to the requirements of both, Section III.A6(b) which requires two consecutive successful tests prior to resuming the normal testing interval and Section III.D.1(a) because the sixth refueling outage is the last refueling outage of the first 10-year plant inservice inspections period. The licensee proposes to resume the testing interval of Section III.D, based upon the successful test during the fifth refueling outage and the creation of a corrective action plan for Type C test failures, and decouple the Type A test schedule from the inservice inspection period. The result of this proposal would be that the next scheduled Type A test would be performed during the seventh refueling outage for Unit 2 (currently scheduled for late 1996) in accordance with a test interval of between thirty and fifty months.

An example is provided in 10 CFR 50.12(a)(2)(ii) of a special circumstances for which the NRC will consider granting exemptions that involve cases for which the application of the

regulation is not necessary to achieve the underlying purpose of the rule. The licensee completed a successful ILRT test during the fifth refueling outage for Unit 2 and has developed a corrective action plan for leakage through specific containment penetrations. Strict application of Appendix J would require performance of another ILRT during the sixth refueling outage in order to address the additional testing requirements of Appendix J, Section III.A.6(b) and the Section III.D.1(a) requirement to perform an ILRT during the 10-year plant inservice inspections. In order to avoid performance of an ILRT during the sixth refueling outage, the licensee has proposed a one-time exemption from Section III.A.6(b) (additional testing requirements) and a permanent exemption from Section III.D.1(a), in order to de-couple the Appendix J ILRT test schedule and the 10-year inservice inspection periods. Granting the exemption would result in the performance of the next Unit 2 ILRT during the seventh refueling outage, which in consistent with the regular testing interval of approximately once per forty months.

The Need for the Proposed Action

The proposed exemption would allow the licensee to resume a normal ILRT testing interval and thereby preclude the need to perform an ILRT during the sixth refueling outage of LaSalle, Unit 2. Performance of an ILRT during the upcoming Unit 2 refueling outage would result in the collection of significant radiation dose, approximately 3 person-rems, by licensee personnel. The need for the exemption results from the requirement to perform the ILRT during refueling outages associated with the 10-year plant inservice inspections and the requirements to perform additional ILRT testing in the event that consecutive ILRT's fail, even if those failures are a result of leakage through identified penetrations.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed exemption and concludes that granting the one-time relief from Section III.A.6(b) and granting relief from Section III.D.1(a) of Appendix J to 10 CFR part 50 does not affect the configuration of plant systems or plant operating practices. The proposed exemption is limited to the scheduling of a required Type A test during the sixth refueling outage of Unit 2 and a subsequent decoupling of the Type A tests from the inservice inspection period. Previous testing has demonstrated the integrity of the containment structure. Leakage through containment penetrations and values would continue to be identified by performance of LLRT. Therefore, no increase in the release of radioactive materials following an accident would result from the revision of the Type A test schedule. Changes to the Type A test schedule do not affect the radioactive effluent release during normal operation. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed exemption only involves the scheduling of ILRT testing. It does not affect nonradiological plant effluents and there are no other nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission concludes that there are no significant environmental impacts that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative would be to deny the requested exemption and require the licensee to conduct the ILRT during the sixth refueling outage of LaSalle, Unit 2. Denial would not significant reduce the environmental impact of plant operation and would result in lost electrical generation and expense of significant licensee resources.

Alternate Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the LaSalle County Station dated November 1978.

Agencies and Persons Contacted

The NRC staff reviewed the licensee's request and consulted with the Illinois State official. The State Official had no comments regarding the NRC's proposed action.

Finding of no Significant Impact

Based on the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the request for exemption dated October 24, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois.

Dated at Rockville, MD., this 1st day of March 1995.

For the Nuclear Regulatory Commission.

George F. Dick, Jr.,

Acting Director, Project Directorate III–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–5934 Filed 3–9–95; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Thermal Hydraulic Pheonomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on March 27 and 28, 1995, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss Westinghouse Electric Corporation proprietary information pursuant to (5 U.S.C. 552b(c)(4)).

The agenda for the subject meeting shall be as follows: Monday, March 27, 1995–8:30 a.m. until the conclusion of business and Tuesday, March 28, 1995–8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of the NRC research program to modify the RELAP5/MOD3 code for use in the AP600 design certification review. The focus of this meeting will be on the development of the Phenomena Identification and Tanking Table (PRT) in this regard. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may ask only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff eningeer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: March 6, 1995.

Sam Duraiswamy

Chief Nuclear Reactors Branch.

[FR Doc. 95–5935 Filed 3–9–95; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Meeting on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on March 29 and 30, 1995, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be closed to public attendance to discuss Westinghouse proprietary information pursuant to (5 U.S.C. 552b(c)(4)), with the exception of a one to two hour portion that will be open to the public. At this time, the open session is scheduled to be held during the afternoon of the second day (March 30, 1995) of the meeting.

The agenda for the subject meeting shall be as follows:

Wednesday, March 29, 1995–8:30 a.m. until the conclusion of business and Thursday, March 30, 1995–8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of the Westinghouse test and analysis programs associated with the AP600 Passive Containment System. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statement may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Westinghouse Electric Corporation, NRC, staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the scheduling of sessions which are open to the public, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: March 6, 1995.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 95–5936 Filed 3–9–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Reclearance of SF 2802, SF 2802B, and RI 36–7

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for a reclearance of an information collection. SF 2802, Application for Refund of Retirement Deductions (CSRS), must be completely filled out and signed before OPM pays a refund of retirement contributions. SF 2802B must also be complete if there are spouse(s) or former spouse(s) who must be notified of the employee's intent to take a refund. RI 36–7 is needed when the SF 2802 is incomplete as to the applicant's marital status.

Approximately 35,000 SF 2802s are completed annually. We estimate that it takes 45 minutes to fill out the form. the annual burden is 26,250 hours. Approximately 31,500 SF 2802Bs are completed annually. We estimate that it takes 15 minutes to fill out the form. the annual burden is 7,875 hours. Approximately 21,050 RI 36–7s are completed annually. We estimate that it takes 10 minutes to fill out the form. The annual burden is 3,508 hours. The combined total annual burden is 37,633 hours.

For copies of this proposal, contact Doris R. Benz on (703) 908–8564.

DATES: Comments on this proposal should be received by no later than April 10, 1995.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Retirement and Insurance Group, Operations Support Division, U.S. Office of Personnel Management, 1900 E Street NW., Room 3349, Washington, DC 20415 and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Forms Analysis and Design, (202) 606–0623.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–5837 Filed 3–9–95; 8:45 am]

BILLING CODE 6325–01–M

Notice of Request for Reclearance of Form SF 2800

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for reclearance of an information collection. Form SF 2800, Application for Death Benefits Under the Civil Service Retirement

System, is used to collect information so that OPM can pay death benefits to the survivors of federal employees and annuitants.

Approximately 70,000 applications are completed annually. It takes an estimated 30 minutes to complete the form. The total annual burden is 35,000 hours.

For copies of this proposal, contact Doris R. Benz on (703) 908–8564.

DATES: Comments on this proposal should be received by no later than April 10, 1995.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349, Washington, DC 20415 and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–4025.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–5836 Filed 3–9–95; 8:45 am]

BILLING CODE 6325–01–M

The National Partnership Council; Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Office of Personnel Management (OPM) announces the next meeting of the National Partnership Council (the Council). Notice of this meeting is required under the Federal Advisory Committee Act.

TIME AND PLACE: The Council will meet April 19, 1995, from 1:30 to 3:30 p.m., in the Wellington Ballroom of the Westin Hotel, 909 North Michigan Avenue, Chicago, IL 60611.

TYPE OF MEETING: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Handicapped individuals wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

POINT OF CONTACT: Douglas K. Walker, National Partnership Council, Executive Secretariat, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 5315, Washington, DC 20415–0001, (202) 606–1000.

SUPPLEMENTARY INFORMATION: The date and location of the Council's April meeting was chosen to coincide with OMP's '95 Human Resource Management Conference, which meets in Chicago from April 18–20, 1995. This will be an interactive meeting. There will be two partnership presentations followed by an audience participation segment. Persons seated in the audience will be permitted to ask questions from the floor. The meeting will end with a discussion of various Council workplan items.

PUBLIC PARTICIPATION: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Douglas K. Walker at the address shown above. Comments should be received by April 14, in order to be considered at the April 19, meeting.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 95–5839 Filed 3–9–95; 8:45 am]

BILLING CODE 6325–01–M

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, April 13, 1995
Thursday, April 27, 1995
Thursday, May 11, 1995
Thursday, May 25, 1995
Thursday, June 8, 1995
Thursday, June 22, 1995

The meetings will start at 10:45 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room l340, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: February 28, 1995.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 95–5838 Filed 3–9–95; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the President's Committee of Advisors on Science and Technology

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a meeting of the President's Committee of Advisors on Science and Technology (PCAST), and describes the functions of

the Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES AND PLACE: March 27 and 28, 1995. The White House Conference Center, Truman Room, Third Floor, 726 Jackson Place NW, Washington, DC 20500.

TYPE OF MEETING: Open, with one closed session.

PROPOSED SCHEDULE AND AGENDA: The President's Committee of Advisors on Science and Technology (PCAST) will meet in open session on Monday, March 27, 1995, at approximately 9:00 AM to be briefed on current activities of the Office of Science and Technology Policy (OSTP) and of the National Science and Technology Council (NSTC). This session will end at approximately 12:00 Noon. The Committee will reconvene in closed session at approximately 1:30 PM to discuss various aspects of cooperative efforts between the United States and the Russian Federation to control and account for fissile materials. This session will last approximately 60 minutes, and will be closed to the public, pursuant to Title 5, U.S. Code, Section 552b(c)(1). The Committee will convene in open session at approximately 2:30 PM, to discuss various components of the Committee's work plan. This session will end at approximately 6:00 PM. Either of the morning or afternoon sessions may be interrupted for the PCAST to gather at the White House to be introduced to the President of the United States.

The Committee will meet again in open session on Tuesday, March 28, at approximately 9:00 AM to discuss several activities of the National Science and Technology Council. This session will end at approximately 12:00 Noon, and may be interrupted for the PCAST to gather at the White House to be introduced to the President of the United States.

FOR FURTHER INFORMATION: For information regarding time, place, and agenda please call Laurel Kayse or Mike Kowalok, (202) 456–6100, prior to 3:00 p.m. on Friday, March 24, 1995. Other questions may be directed to Angela Phillips Diaz, Executive Secretary of PCAST, or Mike Kowalok, (202) 456–6100. Please note that public seating for this meeting is limited, and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Committee of Advisors on Science and Technology was established by Executive Order 12882, as amended, on November 23, 1993. The purpose of PCAST is to advise the President on matters of national importance that have significant science and technology content, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Committee members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by John H. Gibbons, Assistant to the President for Science and Technology, and by John Young, former President and CEO of the Hewlett-Packard Company.

March 7, 1995.

Barbara Ann Ferguson,

Administrative Officer, Office of Science and Technology Policy.

[FR Doc. 95–6000 Filed 3–9–95; 8:45 am]

BILLING CODE 3170–01–P

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Acting Agency Clearance Officer: David T. Copenhafer (202) 942–8800.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, NW. Washington, DC 20549.

Amendments:

Rule 34b–1—File No. 270–305.

Form N–1A—File No. 270–21.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, the Securities and Exchange Commission (''Commission'') has submitted for OMB approval an amendment to the approval previously granted by the OMB for amendments to rule 34b–1 under the Investment Company Act of 1940 (''Investment Company Act''), 15 U.S.C. 80a, and to Form N–1A under the Investment Company Act and the Securities Act of 1933, 15 U.S.C. 77a. The purpose of the amendment is to reflect (i) the reduced number of burden hours associated with the amendments to Form N–1A, and (ii) that the Commission has determined not to adopt the proposed amendments to rule 34b–1.

In December 1993, the Commission proposed for public comment new rule 18f–3 and amendments to certain other rules and forms, including rule 34b–1 and Form N–1A. In response to comments received on the proposal, the Commission determined to revise certain disclosure requirements that were proposed as amendments to Form N–1A and not to adopt rule 34b–1.

Form N–1A is the registration statement used by open-end management investment companies other than small business investment companies and insurance company separate accounts. The Form as amended will require substantially less disclosure in the prospectuses of multiple class and master-feeder funds than under the original proposal. The average additional burden to registrants imposed by the amendments to Form N–1A as amended is estimated to be approximately 25 minutes per multiple class or master-feeder fund registrant. The amendment also notes that the number of registrants using Form N–1A has increased to approximately 3,000. Thus, the total annual burden for Form N–1A for all registrants would be 3,188,364 hours.

Rule 34b–1 governs the use of performance information in investment company sales literature. In connection with the proposal, it was estimated that the proposed amendment to rule 34b–1 would impose an average additional burden of 431 hours per respondent each year. Because the Commission has determined not to adopt the proposed amendments, however, this additional burden will not be imposed, and the estimated total burden per respondent will be 3,444 hours.

Direct general comments to the Clearance Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to David T. Copenhafer, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and SEC Clearance Officer, Office of Management and Budget, Paperwork Reduction Project (3235–0307 for Form N–1A and 3235–0346 for rule 34b–1), Room 3208, New Executive Office Building, Washington, DC 20543.

Dated: February 27, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–5862 Filed 3–9–95; 8:45 am]

BILLING CODE 6717–01–M

[Release No. 35–26244]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 3, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete

statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 27, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Notice of Proposal to Amend Certificate of Incorporation and Adopt and Implement Shareholder Rights Plan; Order Authorizing Solicitation of Proxies

The Columbia Gas System, Inc. (70–8565)

The Columbia Gas System, Inc. (''Columbia''), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company and a debtor-in-possession under Chapter 11 of the United States Bankruptcy Code (''Code''), has filed a declaration under sections 6(a), 7 and 12(e) of the Act and rules 62 and 65 thereunder.

Columbia proposes to amend its certificate of incorporation (''Charter'') to change the description of preferred stock, as presently authorized, in order to permit the use of preferred stock pursuant to a proposed shareholder rights plan (''Rights Plan''). Shareholder approval of the amendment to the Charter will be sought at Columbia's annual meeting scheduled for April 28, 1995. The adoption and implementation of the Rights Plan is subject to the approval of the United States Bankruptcy Court for the District of Delaware (''Bankruptcy Court'') and this Commission.

Rights plans are designed to allow a board to take additional time to negotiate with potential acquirors and enhance the probability that competing bids will emerge. They may permit a board to thwart an inadequate offer. Under Columbia's Rights Plan, existing shareholders would be granted a right to purchase preferred stock that has voting and dividend rights equivalent to common stock at a substantial discount to common stock if a triggering event occurs. The triggering event in the Rights Plan is the acquisition of 10% or more of Columbia's common stock. If a triggering event occurs, the rights held by the acquiror would be void and the exercise of the rights by other stockholders would result in a dilution of the value and voting power of the potential acquiror. If the Columbia board of directors determines that an acquisition should be allowed, it has the option of redeeming the rights to permit a proposed offer to proceed. The Rights Plan would terminate eighteen months after the effective date of Columbia's plan of reorganization under the Code subject to extension if an offer to purchase 10% or more of Columbia's common stock is pending.

The Charter amendment would change the par value of Columbia's preferred stock from $50 to $10 per share and delete provisions in the Charter which subject Columbia to certain restrictions on dividends and on unsecured debt while any preferred stock is outstanding and which define the voting rights and liquidation rights of the preferred stock in a manner inconsistent with the voting and liquidation rights proposed for the Series A Participating Preferred Stock to be utilized in the Rights Plan (''Preferred Stock'') should the rights become exercisable. Columbia currently has no preferred stock outstanding. Instead of being set forth in the Charter, voting rights, liquidation rights, and dividend and other terms of each issue of preferred stock would be set forth in the individual certificates of designation to be authorized to Columbia's board of directors and filed with the secretary of state of Delaware.

Each one-one thousandth of a share of Preferred Stock would be equivalent to one share of common stock for dividend, voting and liquidation process. Once a person (an ''Acquiror'') has acquired 10% or more of the Columbia's common stock, each shareholder other than the Acquiror would be entitled to purchase for $100 that number of fractions of Preferred Stock which is equal to the number of shares of common stock with a market value totalling $200 at the time of purchase.

Dividends on the Preferred Stock will consist of: (1) Dividends payable quarterly (each a ''Quarterly Dividend Payment Date'') in the amount of $10.00 per whole share less the amount of all cash dividends declared on the Preferred Stock pursuant to the following clause (2) since the immediately preceding Quarterly Dividend Payment Date (the total of which shall not be less than zero); and (2) dividends payable in cash on the payment date for each cash dividend declared on the common stock in an amount per whole share equal to the Formula Number then in effect times the cash dividends then to be paid on each share of common stock.[1] In addition, if Columbia shall pay any dividend or make any distribution on common stock payable in assets, securities or other forms of noncash consideration (other than dividends or distributions solely in shares of Columbia common stock), then Columbia shall simultaneously pay or make on each outstanding whole share of Preferred Stock a dividend or distribution in like kind equal to the Formula Number than in effect, times such dividend or distribution on each share of common stock.

Each holder of Preferred Stock shall be entitled to a number of votes equal to the Formula Number then in effect, for each share of Preferred Stock held of record on each matter which holders of common stock or stockholders generally are entitled to vote, multiplied by the maximum number of votes per share which any holder of common stock or stockholders generally have with respect to such matter (assuming any requirement to vote a greater number of shares is satisfied).

Except as otherwise provided in the certificate of designation or by applicable law, the holders of shares of Preferred Stock and the holders of shares of common stock shall vote together as one class for the election of directors of Columbia and on all other matters submitted to a vote of stockholders of Columbia.

If, at the time of any annual meeting of stockholders for the election of directors, the equivalent of six quarterly dividends (whether or not consecutive) payable on any share of Preferred Stock are in default, the number of directors constituting the board shall be increased by two. In addition to voting together with the holders of common stock for the election of other directors of Columbia, the holders of Preferred Stock (and of any other stock on a parity with the Preferred Stock and also entitled to vote due to a default), voting separately as a class to the exclusion of the holders

[1] Since each 1/1,000th of a share of Preferred Stock is designed to be equivalent to one share of common stock, the ''Formula Number'' is 1,000, subject to adjustment in the event of stock dividends, stock splits or similar events.

of common stock, shall be entitled at said meeting of stockholders (and at each subsequent annual meeting of stockholders), unless all dividends in arrears have been paid or declared and set apart for payment prior thereto, to vote for the election of two directors of Columbia. If and when such default shall cease to exist, the holders of Preferred Stock shall be divested of the foregoing special voting rights, subject to revesting in the event of each and every subsequent like default in payments of dividends. Upon the termination of the foregoing special voting rights, the terms of office of all persons who may have been elected directors pursuant to said special voting rights shall terminate and the number of directors constituting the board shall be decreased by two. Except as provided in the certificate of designation or by application law, holders of Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of common stock as described above) for authorizing or taking any corporate action.

Upon the liquidation, dissolution or winding up of Columbia, whether voluntary and involuntary, no distribution shall be made: (1) to the holders of shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Preferred Stock unless, prior thereto, the holders of shares of Preferred Stock shall have received an amount equal to the accrued and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, plus an amount equal to the greater of (x) $10.00 per whole share or (y) an aggregate amount per share equal to the Formula Number then in effect times the aggregate amount to be distributed per share to holders of Common Stock; or (2) to the holders of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Preferred Stock, except distributions made ratably on the Preferred Stock and all other such parity stock in proportion to the total amounts to which the holders of all such shares are entitled upon such liquidation, dissolution or winding up.

The Preferred Stock will rank junior to all other series of preferred stock of Columbia unless the board shall specifically determine otherwise in fixing the special rights of such series and the limitations thereof. Declarants state, however, that there is no expectation that the rights would become exercisable and the above described Preferred Stock issued.

The board of directors may at its option satisfy the rights by issuing one half the securities that would be issuable for the purchase price or by issuing sufficient common stock to be equivalent to the preferred stock that would be issuable, (each one one-thousandth of a share of preferred stock being the equivalent of one share of common stock).

Columbia requests authority to solicit proxies from its stockholders for approval of the amendment to the Charter. Columbia has filed its proxy solicitation material and requests that the effectiveness of its declaration with respect to the solicitation be accelerated pursuant to Rule 62(d).

It appearing to the Commission that Columbia's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to rule 62(d):

It is ordered that the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith under rule 62(d), and subject to the terms and conditions prescribed in rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–5866 Filed 3–9–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26243]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 3, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 27, 1995, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Electric System, et al. (70–8571)

New England Electric System (''NEES''), a registered holding company, New England Energy, Incorporated (''NEEI''), a wholly owned subsidiary company of NEES, and New England Power Company (''NEPCO''), also a wholly owned subsidiary company of NEES, all of 25 Research Drive, Westborough, Massachusetts, 01582, have filed an application-declaration under sections 6, 7, 9(a) and 10 of the Act.

NEES, NEEI, and NEPCO seek Commission authorization for NEEI to refinance its present bank debt through an agreement (''the New Credit Agreement'') for loans of up to $225 million with a syndicate of banks (''the Banks''). NEES, NEEI, which engages in activities relative to oil and gas fuel supplies for the NEES system and for non-affiliates, and NEPCO, which engages in wholesale electric power generation and transmission for the retail electric utility subsidiary companies within the NEES system, also propose to amend and extend a Fuel Purchase Contract between NEEI and NEPCO as well as a Capital Funds Agreement, a Loan Agreement, and a Capital Maintenance Agreement between NEEI and NEES.

On the basis of cash flow projections and bank debt retirements, and in order to reduce its capital costs, NEEI has decided to refinance its present credit agreement.

The New Credit Agreement would provide a revolving fund of $225 million that is reduced each year under an established schedule (''Revolving Facility Availability''). NEEI has the right, upon notice, to reduce the unused portion of Revolving Facility Availability. The New Credit Agreement would be for a term of seven years with an option to extend for an additional year. It would provide several interest rate options.

First, NEEI can borrow at a periodic fixed Eurodollar rate with maturities of up to 12 months at the applicable LIBOR plus a margin over LIBOR,

payable on each interest period or quarterly for interest periods beyond three months. Second, NEEI can borrow at the base rate of Credit Suisse, the principal Bank, payable quarterly in arrears and calculated on the basis of a 365/366 day year. Third, NEEI can borrow at a rate obtained through competitive bids from the Banks for funds in amounts over $10 million.

Under the New Credit Agreement, a facility fee will be payable on the percentage amount of the obligation of each Bank to make advances to NEEI. The facility fee is payable upon each commitment, irrespective of usage, and will be calculated on the basis of the actual number of days elapsed in a year of 360 days. A one-time arrangement fee of $40,000 also will be payable to Credit Suisse.

Credit Suisse will administer the New Credit Agreement for an annual fee of $20,000, payable upon closing and once each year. An additional charge of $750 will be payable for each NEEI request for a competitive bid.

To secure the funds borrowed, NEEI proposes to assign to the Banks its rights under the Fuel Purchase Contract with NEPCO and the Capital Funds Agreement and the Loan Agreement with NEES. Upon termination of the Fuel Purchase Contract, the funds will be secured by rights under the Capital Maintenance Agreement.

The effective cost of funds over the life of the New Credit Agreement will be approximately 32.5 basis points over LIBOR, based upon current NEPCO senior secured long-term debt ratings. Under the present credit agreement, the current effective spread over LIBOR is 5/8%, which would increase to 7/8% between 1996 through 1998.

National Fuel Gas Company (70–8579)

National Fuel Gas Company (''National''), 10 Lafayette Square, Buffalo, New York 14203, a registered holding company, has filed a declaration under sections 6(a), 7 and 12(b) of the Act and rule 45 thereunder.

National proposes to issue and sell, from time to time through December 31, 2000, up to 2,000,000 shares of its authorized but unissued common stock, $1.00 par value (''Common Stock''), to Chemical Bank (or such other bank or trust company as National may from time to time designate), as agent for the participants in National's Dividend Reinvestment and Stock Purchase Plan (''Plan''). The price of shares of Common Stock sold by National to the Plan will be the average of the daily high and low sales prices of National's common stock on the New York Stock Exchange on the 15th day of the applicable month, or, if the New York Stock Exchange is not open for trading on that date, such average on the next succeeding date on which the New York Stock Exchange is open for trading.

National proposes to use the proceeds from the sale of the Common Stock to repay existing short-term and long-term debt, to pay interest and dividends, to make additional capital contributions to its wholly owned subsidiaries and for other corporate purposes. The amount of proposed capital contributions to each subsidiary will not, in any one year, exceed the amount that the subsidiary is authorized by the Commission to borrow from National's money pool, pursuant to HCAR No. 25964 (File No. 70–8297) or any subsequent money pool authorization.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–5865 Filed 3–9–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20940/812–9396]

Norwest Funds, et al.; Notice of Application

March 6, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Norwest Funds, Norwest Select Funds, Core Trust (Delaware), Forum Funds, Inc. (collectively, the ''Funds''), Norwest Bank Minnesota, N.A. (''Norwest''), Forum Advisors, Inc. (''FAI''), and H.M. Payson & Co., Inc. (''Payson'') (collectively, the ''Advisers'').

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) to exempt applicants from section 17(a), and under rule 17d–1 to permit certain transactions in accordance with section 17(d) and rule 17d–1.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain money market funds to sell their shares to affiliated investment companies.

FILING DATE: The application was filed on December 21, 1994 and amended on February 24, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 31, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Norwest Funds, Norwest Select Funds, 61 Broadway, New York, New York 10006; Core Trust, Forum Funds, Inc., Forum Advisors, Inc., Two Portland Square, Portland, Maine 04101; H.M. Payson & Co., Inc., One Portland Square; Portland, Maine 04101.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each Fund is registered under the Act as an open-end management investment company and is comprised of multiple series. Norwest Funds and Forum Funds offer both non-money market series and money market series. Norwest Select Funds and Core Trust offer only non-money market series. All existing and future non-money market series of the Funds relying on the relief granted are hereinafter referred to as ''Non-Money Market Series.'' The existing and future money market series of the Funds relying on the relief granted are hereinafter referred to as ''Money Market Series.'' Applicants request relief on behalf of any future series or registered investment company advised by the Advisers or any investment adviser controlling, controlled by or under common control with the Advisers.

2. Norwest is the investment adviser for each series of Norwest Funds and Norwest Select Funds, and for two series of Core Trust. FAI serves as investment adviser for each of the Forum Funds series, except for the Payson Balanced Fund and Payson Value Fund, which are advised by Payson. Each of the Advisers is

registered under the Investment Advisers Act of 1940. Applicants request relief on behalf of any investment adviser controlling, controlled by, or under common control with the Advisers. Forum Financial Services, Inc. is the principal underwriter and manager for each series of Norwest Funds, the Norwest Select Funds, and Forum Funds.

3. Each Non-Money Market Series will hold a portion of its net assets in cash or short-term investments (''Uninvested Cash'') pending investment in portfolio securities, or for meeting expected redemptions or other purposes. Applicants propose that: (a) each Non-Money Market Series advised by Norwest would be permitted to invest its Uninvested Cash in shares of one or more Money Market Series advised by Norwest; and (b) Non-Money Market Series advised by FAI or Payson would be permitted to invest in shares of one or more Money Market Series advised by FAI or Payson. Where a Non-Money Market Series would have more than one Money Market Series available for investment, the decision as to which Money Market Series in which it would invest (if any) will be made by the investment adviser of the Non-Money Market Series solely on the basis of the investment adviser's view as to the suitability and investment merits of the respective Money Market Series as compared to all available, competitive short-term instruments. Where a Money Market Series offers more than one class of securities, each Non-Money Market Series would invest only in the class with the lowest expense ratio at the time of investment.

Applicants' Legal Analysis

1. Applicants request an order under sections 6(c) and 17(b) of the Act granting an exemption from section 17(a) of the Act and under rule 17d–1 thereunder permitting certain joint transactions in accordance with section 17(d) of the Act and rule 17d–1. The order would permit: (a) the Non-Money Market Series to purchase, utilizing Uninvested Cash, and to redeem shares of the Money Market Series; (b) the Money Market Series to sell and redeem their shares to and from the Non-Money Market Series; and (c) the advisers to effect such purchases and redemptions of shares of the Money Market Series as investment adviser to the Funds.[1]

2. Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, acting as principal, to sell any security to, or purchase any security from, such investment company. Since the series of Norwest Funds and Norwest Select Funds share a common board of trustees and the series of Forum Funds share a common board of trustees, the series of each such Fund may be ''affiliated persons'' of each other under section 2(a)(3)(C) of the Act by virtue of the possibility that they may be deemed under common control with each other. Additionally, since the series of Norwest Funds, Norwest Select Funds, and Core Trust have the same investment adviser, they also may be ''affiliated persons'' of each other under section 2(a)(3)(C). Because of these potential affiliations, the sale of shares of the Money Market Series to the Non-Money Series, and the redemption of such shares from the Money Market Series, could be prohibited under section 17(a).

3. Section 17(b) of the Act provides that the SEC may, upon application, grant an order exempting applicants from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any persons concerned; (b) the proposed transaction is consistent with the policy of each investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Under section 6(c) of the Act, the SEC may exempt transactions from any provision of the Act or any rule or regulations thereunder ''if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions'' of the Act. Applicants request relief under sections 6(c) and 17(b) because they wish to engage in a series of transactions, rather than a single transaction.

4. Under the proposed transactions, the Non-Money Market Series will retain their ability to invest their cash balances directly in money market instruments as authorized by their respective investment objectives and policies. Under the proposal, shares of the Money Market Series will be purchased and redeemed at their net asset value, which is the same consideration paid and received for these shares by any other shareholder. These shares will be purchased and sold by the Non-Money Market Series on the same terms and on the same basis as shares are purchased and sold to all other shareholders.

5. On the other side of the proposed transactions, each Money Market Series reserves the right to discontinue selling shares to any Non-Money Market Series if the board of trustees of such applicants determine, based on then current facts and circumstances, that such sales would adversely affect its portfolio management and operations. In order to ensure that the Non-Money Market Series will not exert any undue influence on the voting process for any matter submitted to a vote by the shareholders of the Money Market Series, the Non-Money Market Series will vote their shares of each of the Money Market Series in proportion to the vote by all other shareholders of such Money Market Series. Based on the above, applicants believe that the proposed transactions satisfy the standards of sections 6(c) and 17(b).

6. Section 17(d) of the Act and rule 17d–1 thereunder provide that it is unlawful for an affiliated person of a registered investment company, acting as principal, to participate in any joint enterprise or other joint arrangement in which any such registered company is a participant. Rule 17d–1 provides that the SEC may issue an order permitting applicants to participate in a joint transaction after considering certain factors. The Money Market Series would purchase and redeem shares from the Non-Money Market Series. In addition, the Advisers manage assets of the Money Market and Non-Money Market Series. Due to the relationships between the Advisers and the Money Market and Non-Money Market Series, the proposed transactions between the Money Market and Non-Money Market Series could be deemed a joint enterprise or other joint arrangement.

7. The investment by the Non-Money Market Series in shares of the Money Market Series would be on the same basis and would be indistinguishable from any other shareholder account maintained by the Money Market Series. To the extent that any of the Non-Money Market Series invest in the Money Market Series as proposed, applicants believe that the Non-Money Market Series will participate on a fair and reasonable basis in the returns and expenses of the Money Market Series. Thus, applicants believe that relief is appropriate.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The shares of the Money Market Series sold to and redeemed from the Non-Money Market Series will not be subject to a sales load, redemption fee,

[1] Applicants will comply with the percentage limitations set forth in section 12(d)(1) of the Act.

or distribution fee under a plan adopted in accordance with rule 12b–1 under the Act.

2. The investment advisers and their respective affiliates, in their capacities as service providers for the Money Market Series, will remit to the respective Non-Money Market Series, or waive their fees with respect to the Non-Money Market Series, in an amount equal to all fees received by them or their affiliates under their respective agreements with the Money Market Series to the extent such fees are based upon the Non-Money Market Series' assets invested in shares of the Money Market Series. Any of these fees remitted or waived will not be subject to recoupment by the Series' investment advisers or their affiliates at a later date.

3. For the purpose of determining any amount to be waived and/or expenses to be borne to comply with an Expense Waiver, the adjusted fees for a Non-Money Market Series (gross fees minus Expense Waiver) will be calculated without reference to the amounts waived or remitted pursuant to condition 2. Adjusted fees then will be reduced by the amount waived pursuant to condition 2. If the amount waived pursuant to condition 2 exceeds adjusted fees, the Non-Money Market Series' investment adviser also will reimburse the Non-Money Market Series in an amount equal to such excess.

4. The Non-Money Market Series will vote their shares of each of the Money Market Series in the same proportion as the votes of all other shareholders in such Money Market Series.

5. The Non-Money Market Series will receive dividends and bear their proportionate share of expenses on the same basis as other shareholders of such Money Market Series. A separate account will be established in the shareholder records of each of the Money Market Series for each of the acquiring Non-Money Market Series.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–5965 Filed 3–9–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35443; File No. SR–PSE–95–06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to New Organizational Structures

March 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), notice is hereby given that on February 21, 1995, the Pacific Stock Exchange, Inc. (''PSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is proposing to amend articles V and VIII of its Constitution to allow for the admission of entities with new organizational structures as member organizations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The PSE Constitution currently allows members of the Exchange to confer the privileges of their memberships on a firm which may be either a partnership or a corporation. Recent changes to state corporate laws, however, have expanded the types of organizational structures available to such members. Accordingly, the Exchange is proposing to amend its Constitution to permit the Exchange, in its discretion, and on such terms and conditions as the Exchange may prescribe, to approve business trusts, limited liability companies and other organizational structures as member organizations so long as the characteristics of the entity in question are essentially similar to those of corporations or partnerships.[1]

Specifically, the Exchange is proposing to amend Article VIII, Section 1(a) of its Constitution to provide that the Exchange may, in its discretion, and on such terms as the Exchange may prescribe, approve as a member firm entities that have characteristics essentially similar to corporations, partnerships, or both. The proposed change states that such entities and persons associated therewith shall upon approval, be fully, formally and effectively subject to the jurisdiction, and to the Constitution and Rules, of the Exchange to the same extent and degree as are any other member organizations and persons associated therewith.

The Exchange is also proposing to amend Article V, Sections 4, 5, and 7 of the PSE Constitution (definitions of ''member firm,'' ''member organization,'' and ''associated person'') to be consistent with the proposed change to Article VIII, Section 1(a). Accordingly, the Exchange is proposing to add the phrase ''other Organization'' to the definitions of ''member firm'' and ''member organization'' and to add the phrases ''member of a Limited Liability Company'' and ''trustee of a business trust'' to the definition of ''associated person.''

2. Statutory Basis

The proposal is consistent with Section 6(b) of the Exchange Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] The Exchange stated that noncorporate or partnership entities would have to be structured in such a format that would qualify as a broker or dealer registered with the SEC pursuant to the Act, since this is a prerequisite to becoming an Exchange member organization. Telephone conversation between Michael D. Pierson, Senior Attorney, PSE, and Elisa Metzger, Senior Counsel, SEC, on March 3, 1995.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–95–06 and should be submitted by March 31, 1995.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–5864 Filed 3–9–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35442; File No. SR–NSCC–95–02]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Provide a One Day Settling Capability

March 3, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] notice is hereby given that on January 24, 1995, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–NSCC–95–02) as described in Items I and II below, which items have been prepared primarily by NSCC. On January 31, 1995, and March 1, 1995, NSCC filed amendments to the proposed rule change.[2] The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to modify NSCC's rules and procedures in order to provide a one day settling capability for trades that are compared or recorded one day prior to normal settlement date and thereafter. The proposed rule also will revise NSCC's trade guarantee to provide that NSCC will guarantee one day settling items at the time that NSCC completes the trade comparison process for trades which NSCC compares or the trade recording process for trades which NSCC receives in a lock-in capacity.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The test of these statement may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letters from Karen Saperstein, General Counsel, NSCC, to Jerry Carpenter, Assistant Director, Office of Securities Processing, Division of Market Regulation, Commission (January 31, 1995 and March 1, 1995).

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) In the current environment where trades are settled five business days after the trade (''T+5''), trades that are compared or recorded at NSCC after the third business day after the trade date (''T+3'') do not settle until two days later. Thus, a trade which is compared or is recorded on T+4 is not included in the normal settlement cycle for settlement on T+5. NSCC's system assigns a new settlement date to these items which is two business days after the trade is compared or recorded, which in this case would be T+6. Under this processing system, when the T+3 settlement cycle is implemented, trades which are compared or recorded on T+2 would not settle until T+4.[3] Without a change in this process it is estimated that a substantial number of transactions could miss timely settlement.

In order to allow as many compared trades as possible to settle in a normal cycle, NSCC proposes to provide a processing capability that will permit items processed one day prior to the normal settlement day or later to settle the next business day instead of settling two business days after processing. This enhancement will be implemented first in the processing of trades settling in the five day settlement cycle and will include trades processed on T+4 prior to the cut off time, which initially will be 9:00 p.m.[4] T+4, trades processed prior to the daily cut off time also will be subject to next day settlement. Trades processed after the daily cut off time will continue to settle two business days following comparison or recordation. Transactions in securities which are not eligible for NSCC's Continuous Net Settlement (''CNS'') system received prior to the cut off time on T+4 (in a T+5 settlement cycle) or on T+2 (in a T+3 settlement cycle) will be processed on a trade for trade basis for settlement the next business day.

One day settling items will be reported back to members on the morning of the settlement day in a separate section of the Consolidated Trade Summary (''CTS''). Unlike other trades listed on the CTS, these trades

[3] On October 6, 1993, the Commission adopted Rule 15c6–1 which became effective June 7, 1995, establishes T+3 as the standard settlement cycle. Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (order approving Rule 15c6–1); 34952 (November 9, 1994), 59 FR 59137 (order changing the effective date of Rule 15c6–1).

[4] In a T+3 settlement environment, one day settlement will be provided for any transaction processed on T+2 prior to the cut off time.

will be shown as individual items instead of as net positions.[5] No contract output will be provided for one day settling items. Currently, a member's obligation to receive and pay for CNS securities is fixed at the time the CTS is made available to the member. With respect to obligations due to settle that day, the obligation of a member to receive and pay for CNS securities and the obligation of a member to deliver CNS securities will be fixed at the time NSCC completes CNS processing.

CNS transactions received or compared on T+4 prior to cut off time in a T+5 cycle or on T+2 in a T+3 cycle will be included in either the night time allocation cycle or the day time allocation cycle depending on when the data is received from the marketplace or member. Positions which remain open after the evening cycle may be changed as a result of one day settling trades. To avoid creating a customer segregation problem for members with respect to short positions first appearing as compared on settlement day, all one day settling CNS items will automatically be exempted from CNS delivery to the extent they create or increase an existing short position. Members will have the ability through daily instructions to override this exemption for specific issues or through standing instructions to override this exemption for all issues. The proposal also will prohibit members with a long position to which an exercise privilege attaches from submitting an exercise notice with respect to one day settling items.

Currently, NSCC guarantees the settlement of CNS trades as of midnight of the day they are reported to members as compared and the settlement of non-CNS trades from the morning of T+4 through and including T+5. Since one day settling items will appear on the CTS initially on T+5 settlement day, they could settle before midnight of the day they are first reported as compared (*i.e.*, CNS trades could settle before the guarantee becomes effective). NSCC believes that one day settling transactions should receive the same guarantee of completion as other trades settling the same day. Accordingly, a secondary purpose of the rule proposal is to revise NSCC's trade guarantee rules to provide that for CNS one day settling items, the guarantee will be effective at the time NSCC completes the trade comparison process for trades which NSCC compared or at the time NSCC completes the trade recording process for trades which NSCC receives in a locked-in capacity.[6] With respect to non-CNS one day settling items, NSCC will guarantee such trades from completion of comparison or recording through T+5. If a party to a one day settling trade is a member of an interfacing clearing corporation, such guarantee will not be applicable unless an agreement to guarantee such trade exists between NSCC and the interfacing clearing corporation.

Additionally, the proposal provides that transactions in securities which are subject to a voluntary corporate reorganization, have a trade date on or before the expiration of the voluntary corporate reorganization, and are compared or received after T+3 and at least one day prior to the end of the protect period[7] will be processed on a trade-for-trade basis. The proposal also includes certain technical corrections to NSCC's rules and procedures by deleting any reference to the National Institutional Settlement System (''NISS'') or TAD[8] and by reclassifying Miscellaneous Delivery Order (''MDO'') as simply a Delivery Order (''DO'').

The primary purpose of the rule change is to modify NSCC's rules and procedures in order to provide a one day settling capability. NSCC believes that members should have the opportunity to become familiar with this new settlement feature before T+3 is implemented. Accordingly NSCC plans to implement this enhancement while still in the T+5 cycle.

(b) NSCC believes the proposed rule change is consistent with the requirements of the Act, specifically section 17A of the Act, and the rules and regulations thereunder because the rule proposal will facilitates the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F)[9] of the Act requires the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that NSCC's one day settling capability should help promote prompt and accurate clearing and settlement because it will increase the number of trades that are included in the normal settlement cycle. Thus, the number of failed trades and the time required for settlement should be reduced.

As discussed above, as of June 7, 1995, a new settlement cycle of T+3 will be mandated by Commission Rule 15c6–1. The Commission believes that settlement of trades in a shorter time frame will reduce risk to the securities market, including risk to clearing corporations as a result of member failure. Without a one day settling feature, it is possible that many trades may fail to settle according to this settlement time frame. Thus, the proposal is consistent with Section 17A(b)(3)(F)[10] of the Act in that it should enhance NSCC's ability to safeguard securities and funds under its control.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because participants should have the opportunity to become familiar with the one day settling capability prior to the implementation of T+3 settlement.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions

[5] The CTS will continue to indicate a net position of CNS and non-CNS trades scheduled to settle the next business day and also will show individual positions in all one day settling items scheduled to settle that day. The member's actual settlement position of that day will be a combination of the net positions reported the day before and the one day settling items reported that day on the CTS. Settlement of the one day settling items may occur prior to the issuance of the CTS reporting such trades.

[6] This guarantee applies to all trades that settle on the next business day. For example, trades processed on T+5 prior to the cut off time will be guaranteed at that time. A trade processed on T+5 after cut off time, however, will still be guaranteed as of midnight of the day it is reported.

[7] The protect period is a period during which NSCC provides protection to members' positions in securities that are subject to a voluntary reorganization. The protect period begins two business days before the expiration date of a tender offer through such time as NSCC determines, which generally is five business days after the date of the tender offer.

[8] These references are no longer needed because they represent defunct organizations.

[9] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[10] 15 U.S.C. 78q–1(b)(3)(F) (1988).

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number SR–NSCC–95–02 and should be submitted by March 31, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–95–02) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–5863 Filed 3–9–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35454; File No. SR–NASD–94–62, Amendment No. 2]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 2 to Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Limit Order Protection for Member-to-Member Limit Order Handling on Nasdaq

March 8, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 7, 1995, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[11] 17 CFR 200.30–3(a)(12) (1994).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD recently proposed to amend SR–NASD–94–62 relating to limit order protection for member-to-member limit order handling in The Nasdaq Stock Market.[1] Currently, the NASD's Interpretation to the Rules of Fair Practice[2] makes it a violation of just and equitable principles of trade for a member firm to trade ahead of its own customer's limit orders. That amendment clarified that the ''terms and conditions'' exception to the Interpretation applies only to limit orders from institutional accounts, whether such limit orders come from a firm's own customers or are member-to-member limit orders. The term ''institutional account'' is defined in Article III, Section 21(c)(4) of the Rules of Fair Practice.[3] The NASD now is proposing to amend the proposed rule change to provide that the ''terms and conditions'' exception to the Interpretation also applies to limit orders that are 10,000 shares or more, unless such orders are less than $100,000 in value, as well as to limit orders from institutional accounts. Below is the text of the proposed rule change. Proposed new language, including the language that was added in the original proposal, is italicized; language to be deleted is bracketed.

Limit Order Protection Interpretation to Article III, Section 1 of the NASD Rules of Fair Practice

To continue to ensure investor protection and enhance market quality, the NASD Board of Governors is issuing an Interpretation to the Rules of Fair Practice dealing with member firm treatment of [their] customer limit orders in Nasdaq securities. This Interpretation will require members acting as market makers to handle [their] customer limit orders with all due care so that market makers do not ''trade ahead'' of those limit orders. Thus, members acting as market makers that handle customer limit orders, whether received from their own customers or from another member, are prohibited from trading at prices equal or superior to that of the limit order without executing the limit order, provided that, prior to September 1, 1995, this prohibition shall not apply to customer limit orders that a member firm receives from another member firm and that are greater than 1,000 shares. Such orders shall be protected from executions at prices that are superior but not equal to that of the limit order. In the interests of investor protection, the NASD is eliminating the so-called disclosure ''safe harbor'' previously established for members that fully disclosed to their customers the practice of trading ahead of a customer limit order by a market-making firm.

Interpretation

Article III, Section 1 of the Rules of Fair Practice states that:

A member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.

The Best Execution Interpretation states that: In any transaction for or with a customer, a member and persons associated with a member shall use reasonable diligence to ascertain the best inter-dealer market for the subject security and buy or sell in such a market so that the resultant price to the customer is as favorable as possible to the customer under prevailing market conditions. Failure to exercise such diligence shall constitute conduct inconsistent with just and equitable principles of trade in violation of Article III, Section 1 of the Rules of Fair Practice.

In accordance with Article VII, Section 1(a)(2) of the NASD By-Laws, the following interpretation under Article III, Section 1 of the Rules of Fair Practice has been approved by the Board:

A member firm that accepts and holds an unexecuted limit order from a customer (whether its own customer or a customer of another member) in a Nasdaq security and that continues to trade the subject security for its own market-making account at prices that would satisfy the customer's limit order, without executing that limit order, [under the specific terms and conditions by which the order was accepted by the firm,] shall be deemed to have acted in a manner inconsistent with just and equitable principles of trade, in violation of Article III, Section 1 of the Rules of Fair Practice, provided that, until September 1, 1995, customer limit orders in excess of 1,000 shares received from another member firm shall be protected from the market maker's executions at prices that are superior but not equal to that of the limit order,

[1] *See* Securities Exchange Act Release No. 35391 (Feb. 16, 1995), 60 FR 9878 (Feb. 22, 1995. Notice of the proposed rule change, together with the substance of the proposal as initially filed, was provided by issuance of a Commission release (Securities Exchange Act Release No. 35122, Dec. 20, 1994) and by publication in the **Federal Register** (59 FR 66389, Dec. 23, 1994).

[2] NASD Manual, Rules of Fair Practice, Art. III, Sec. 1 (CCH) ¶ 2151.07.

[3] NASD Manual, Rules of Fair Practice, Art. III, Sec. 21 (CCH) ¶ 2171.

and provided further, that a member firm may negotiate specific terms and conditions applicable to the acceptance of limit orders only with respect to limit orders that are: (1) for customer accounts that meet the definition of an ''institutional account'' as that term is defined in Article III, Section 21(c)(4) of the Rules of Fair Practice; or (2) 10,000 shares or greater, unless such orders are less than $100,000 in value. Nothing in this section, however, requires members to accept limit orders from *any* customer[s].

By rescinding the safe harbor position and adopting this Interpretation of the Rules of Fair Practice, the NASD Board wishes to emphasize that members may not trade ahead of customer limit orders in their market-making capacity even if the member had in the past fully disclosed the practice to its customers prior to accepting limit orders. The NASD believes that, pursuant to Article III, Section 1 of the Rules of Fair Practice, members accepting and holding unexecuted customer limit orders owe certain duties to their customers and the customers of other member firms that may not be overcome or cured with disclosure of trading practices that include trading ahead of the customer's order. The terms and conditions under which institutional account or appropriately sized customer limit orders are accepted must be made clear to customers at the time the order is accepted by the firm so that trading ahead in the firms' market making capacity does not occur. For purposes of this Interpretation, a member that controls or is controlled by another member shall be considered a single entity so that if a customer's limit order is accepted by one affiliate and forwarded to another affiliate for execution, the firms are considered a single entity and the market making unit may not trade ahead of that customer's limit order.

The Board also wishes to emphasize that all members accepting customer limit orders owe those customers duties of ''best execution'' regardless of whether the orders are executed through the member's market making capacity or sent to another member for execution. As set out above, the best execution Interpretation requires members to use reasonable diligence to ascertain the best inter-dealer market for the security and buy or sell in such a market so that the price to the customer is as favorable as possible under prevailing market conditions. The NASD emphasizes that order entry firms should continue to routinely monitor the handling of their customers' limit orders regarding the quality of the execution received.

* * * * *

II. Self-regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments its received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the amendment to the proposed rule change is to expand the Interpretation's ''terms and conditions'' exception to the protection of limited orders. The NASD is amending its proposal to permit member firms to negotiate terms and conditions for certain larger sized customer orders from accounts other than institutional accounts (''retail accounts'').

The NASD believes that the terms and conditions exception to the handling of limit orders should apply not only to customer orders from institutional accounts, but also to other orders that are usually perceived of as ''institutional'' in nature. To ensure that markets makers are able to negotiate regarding the handling of such orders, the NASD is proposing to permit markers to negotiate terms and conditions with respect to orders of retail accounts that are 10,000 shares or greater, unless such orders are less than $100,000 in value. This numerical size limit is intended to ensure that ordinary limit orders from detail accounts are not subject to the terms and conditions exception.

The provision allows market makers to negotiate specific order handling procedures with parties that deal in larger sized orders. Therefore, market makers can employ appropriate strategies in filling larger sized orders. The order sizes contained in this amendment are intended to ensure that the Interpretation provides limit order protection for retail investors, while maintaining the ability of market makers to negotiate with respect to institutional-sized orders, whether account customers constitute institutional accounts or retail accounts.

Accordingly, the amendment provides that a member firm that accepts a limit order from a person or entity that does not fall with the definition of institional account may not initiate the negotiation of any terms and conditions on the acceptance of that limit order, unless that order is for 10,000 shares or more and is for a price of $100,000 or greater. For example, if an order were for 10,000 shares, but the price per share were only $5.00, the total order value would be $50,000. The order would not qualify for the terms and conditions exception because the total value of the order would be less than $100,000. This amendment does not affect the ability of a member firm to negotiate special terms and conditions with the customer of an institutional account, or its representative, that permit the firm to trade ahead of or at the same price as the limit order, regardless of the size or value of that order. The amended Interpretation would apply to limit orders placed by the firm's own customers and member-to-member limit orders.

The NASD believes that this approach accurately reflects the ordinary framework in which firms and institutions typically negotiate the conditions under which an institution's limit order is to be handled. Moreover, in its approval of the original NASD Interpretation regarding the handling of customer limit orders,[4] the Commission specifically indicated its view that the terms and conditions language of the original Interpretation was included in the NASD Rule to permit special treatment for institutional customer limit orders. In addition, in its own proposal regarding customer limit order protection of Nasdaq securities[5] the Commission solicited comment on the ''terms and conditions'' provisions in its rule, which would allow a market maker to set special conditions to allow it to employ the appropriate strategy in filling an institutional customer's order without being subjected to the requirements of the proposed rule. In the course of that discussion, the Commission proposed that measurable characteristics, such as numbers of shares, or dollar value of the order, should be used as means to distinguish retail orders from institutional orders with respect to terms and conditions.

Of course, the clarification of the Interpretation continues to permit a member to establish with its customers

[4] *See* Securities Exchange Act Release No. 34279 (June 29, 1994), 59 FR 34883 (July 7, 1994).

[5] Securities Exchange Act Release No. 34753 (Sept. 29, 1994), 59 FR 50867 (Oct. 6, 1994) (proposing 17 CFR 240.15c5–1).

or the order entry firm commissions or commission-equivalents regarding the handling of a limit order, provided that the member makes those charges clear to the customer. In this connection, the NASD notes that Nasdaq market makers are free to negotiate additional compensation from order routing firms to the extent that such compensation is economically and competitively justified. Similarly, the Interpretation continues in place the understanding that nothing in the Interpretation would obligate a market maker to accept limit orders from any or all customers or member firms.

The NASD believes that the proposed rule change is consistent with Section 15A(b)(6) in that these proposed changes are designated to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate transactions in these securities, to remove impediments to and to perfect the mechanism of free and open market and a national market system, and in general to protect investors and the public interest.

(b) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Accordingly, while the NASD will monitor carefully for any adverse competitive effects of the Interpretation, it believes that any adverse effects are far outweighed by the enhanced execution opportunities provided public investors.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to SR–NASD–94–62, Amendment No. 2 and should be submitted by March 27, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–6088 Filed 3–8–95; 12:34 pm]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

[Public Notice 2176]

Imposition of Chemical and Biological Weapons Proliferation Sanctions on Foreign Persons

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The United States Government has determined that three companies have engaged in chemical weapons proliferation activities that require the imposition of sanctions pursuant to the Arms Export Control Act and the Export Administration Act of 1979 (the authorities of which were most recently continued by Executive Order 12924 of August 19, 1994), as amended by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

EFFECTIVE DATE: February 18, 1995.

FOR FURTHER INFORMATION CONTACT: Vann H. Van Diepen, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Political-Military Affairs, Department of State (202–647–4930).

SUPPLEMENTARY INFORMATION: Pursuant to Sections 81(a) and 81(b) of the Arms Export Control Act (22 U.S.C. 2798(a), 2798(b)), Sections 11C(a) and 11C(b) of the Export Administration Act of 1979 (50 U.S.C. app. 2410c(a), 2410c(b)), Section 305 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (P.L. 102–182), Executive Order 12851 of June 11, 1993, and State Department Delegation of Authority No. 145 of February 4, 1980, as amended, the United States Government determined that the following foreign persons, currently operating in the Asia-Pacific region, have engaged in chemical weapons proliferation activities that require the imposition of the sanctions described in Section 81(c) of the Arms Export Control Act (22 U.S.C. 2798(c)) and Section 11C(c) of the Export Administration Act of 1979 (50 U.S.C. app. 2410c(c)):

1. Asian Ways Limited
2. WorldCo Limited
3. Mainway International

Accordingly, the following sanctions are being imposed:

(A) Procurement Sanction.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned persons; and

(B) Import Sanction.—The importation into the United States of products produced by the sanctioned persons shall be prohibited.

These sanctions apply not only to the companies described above, but also to their divisions, subunits, and any successor entities. Questions as to whether a particular transaction is affected by the sanctions should be referred to the contact listed above. The sanctions shall commence on February 18, 1995. they will remain in place for at least one year and until further notice.

These measures shall be implemented by the responsible agencies as provided in Executive Order 12851 of June 11, 1993.

Dated: March 1, 1995.

Thomas E. McNamara,

Assistant Secretary of State for Political-Military Affairs.

[FR Doc. 95–6007 Filed 3–9–95; 8:45 am]

BILLING CODE 4710–25–M

[Public Notice 2175]

Proposed UNIDROIT Multilateral Treaty (Convention) on the International Return of Stolen or Illegally Exported Cultural Objects; Request for Public Comment

The International Institute for the Unification of Private Law (UNIDROIT) and the Government of Italy have scheduled a diplomatic conference for June, 1995 which will seek to conclude the draft convention prepared under UNIDROIT auspices on the International Return of Stolen or Illegally Exported Cultural Objects. The Department seeks public comment and recommendations on this draft convention.

UNIDROIT has undertaken this effort at the request of the United Nations Educational, Scientific and Cultural Organization (UNESCO). The proposed UNIDROIT convention does not affect rights and obligations arising under the 1970 UNESCO convention on the protection of cultural property, to which the United States is a party.

The proposed UNIDROIT convention has essentially two parts, the first covering claims for the international return of stolen objects which may be brought by individual parties; the second covering claims by States for return of illegally exported objects. The Department has stated that the convention could only apply prospectively with regard to any claims for return made in the United States. Commentators on the draft convention should also take into account the following: First, there is no commitment by any federal agency at this stage to support U.S. ratification of this proposed convention; that determination can only be made after a final convention text is available. Second, ratification by the Untied States would need to be accompanied by federal implementing legislation which would further define and clarify what rights can be enforced and in what manner. In the event such legislation is proposed in the future, public comment would be sought at that time on all matters to be covered by such legislation.

The draft convention and additional treaty technical provisions are available from the Office of the Assistant Legal Adviser for Private International Law (L/PIL), 2100 K Street, NW., room 501, Washington, DC 20037–7180. Additional available documentation includes a report on the fourth inter-governmental drafting session and an explanatory report prepared by the Secretariat which does not necessarily reflect the views of participating States.

Comments on the draft convention from persons requesting these documents should be received not later than April 15. For further information, contact Harold S. Burman, Executive Director, Advisory Committee on Private International Law, at the above address or by fax at (202) 653–9854.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law.

[FR Doc. 95–5857 Filed 3–9–95; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended March 3, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 50159
Date filed: February 27, 1995
Parties: Members of the International Air Transport Association
Subject: TC2 Telex Mail Vote 731, Switzerland-Greece fare application (RESO 072g)
Proposed Effective Date: April 1, 1995

Docket Number: 50172
Date filed: March 1, 1995
Parties: Members of the International Air Transport Association
Subject: MV/PSC/101 dated January 11, 1995, Mail Vote S067, r-1—RP1718a r-2—RP1718c
Proposed Effective Date: June 1, 1995

Docket Number: 50177
Date filed: March 3, 1995
Parties: Members of the International Air Transport Association
Subject: TC2 Telex Mail Vote 732, Kenya-Tanzania fares
Proposed Effective Date: April 1, 1995

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–5961 Filed 3–9–95; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended March 3, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 50160
Date filed: February 27, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 6, 1995
Description: Application of United Air Lines, Inc. pursuant to 49 U.S.C. Section 41101, requests a certificate of public convenience and necessity for authority to offer scheduled foreign air transportation of persons, property and mail between points in the United States and Kiev and Odessa, Ukraine, via intermediate points in Europe (including but not limited to Frankfurt, Germany).

Docket Number: 50161
Date filed: February 27, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 27, 1995
Description: Application of Northwest Airlines, Inc., pursuant to 49 U.S.C. Section 41108 and subpart Q of the Regulations, requests a certificate of public convenience and necessity authorizing it to engage in foreign air transportation of persons, property and mail between any point in the United States and any point in Canada, subject to a condition that service to Vancouver and Montreal must be separately authorized for a period of two years, and service to Toronto must be separately authorized for a period of three years, consistent with the phase-in provisions for those three cities in the U.S. Canada Air transport Agreement signed on February 24, 1995.

Docket Number: 50163
Date filed: February 27, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 6, 1995
Description: Application of Northwest Airlines, Inc., pursuant to 49 U.S.C. Section 41108 and subpart Q of the Regulations, applies for a certificate of public convenience and necessity to provide scheduled foreign air transportation of passengers, property and mail between points in the United States and Kiev, Ukraine, via Amsterdam. Pursuant to the Department's Notice, Northwest further requests that the Department allocate three (3) U.S.-Ukraine

frequencies to Northwest so that Northwest may operate the third-country code-share services proposed herein. Northwest requests that the certificate be made effective for a period of five years.

Docket Number: 50164
Date filed: February 27, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 6, 1995
Description: Application of Delta Air Lines, Inc., pursuant to 49 U.S.C. Section 41102 and subpart Q of the Regulations, applies for (1) a new or amended certificate of public convenience and necessity to provide scheduled foreign air transportation between a point or points in the United States, on the one hand, and Kiev and Odessa, Ukraine, on the other hand, via an intermediate point in Europe, and (2) an allocation of seven (7) weekly round-trip frequencies.

Docket Number: 50165
Date filed: February 27, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 27, 1995
Description: Application of Air Caraibes Exploitation, pursuant to 49 U.S.C. Section 41301 of the Act and subpart Q of the Regulations, applies for a foreign air carrier permit to engage in the foreign air transportation of persons, property and mail to conduct foreign charter air transportation of persons, property and mail with small aircraft between points in the French West Indies (Guadeloupe, Martinique, St. Barthelemy and St. Martin) and Puerto Rico, the U.S. Virgin Islands and Miami, Florida.

Docket Number: 50170
Date filed: February 28, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 28, 1995
Description: Application of Phoenix Leasing Corporation, pursuant to 49 U.S.C. 41102 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing it to provide scheduled foreign air transportation of persons, property and mail between points in the United States and Loretto, Cabo San Lucas and Huatulco, Mexico.

Docket Number: 50173
Date filed: March 1, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 29, 1995
Description: Joint Application of Federal Express Corporation and Evergreen International Airlines, Inc., pursuant to 49 U.S.C. Section 41105 of the Act and Subpart Q of the Regulations, respectfully request approval of the transfer to FedEx of the authority held by Evergreen to transport property and mail between points in the U.S. and points in the People's Republic of China, pursuant to Evergreen's Experimental Certificate of Public Convenience and Necessity for Route 638 and related exemptions and frequency allocations. The Joint Applicants request that the Department act expeditiously under non-oral show cause procedures. FedEx and Evergreen have entered into a Route Purchase and Transfer Agreement for the purchase and transfer of Evergreen's U.S.-China authority.

Docket Number: 50179

Date filed: March 3, 1995

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 31, 1995

Description: Application of Air Espana, S.A. trading as Air Europa, pursuant to 49 U.S.C. Section 41302 and Subpart Q of the Regulations, applies for renewal of the Foreign Air Carrier Permit it was issued in 1990. Air Europa seeks Third and Fourth Freedom authority to continue to engage in charter foreign air transportation of persons and property between any point or points in Spain and any point or points in the United States. Air Europa also seeks Fifth Freedom charter authority to the maximum extent permitted by the Department, and subject to the Department's prior authorization requirements.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–5962 Filed 3–9–95; 8:45 am]

BILLING CODE 4910–62–P

Maritime Administration

Notice of Approval of Applicant as Trustee

Notice is hereby given that LaSalle National Bank, National Association, with offices at 120 South LaSalle, Street, Chicago, Illinois 60603, has been approved as Trustee pursuant to Public Law 100–710 and 46 CFR Part 221.

Dated: March 6, 1995.

By Order of the Maritime Administrator

Joel C. Richard,

Acting Secretary.

[FR Doc. 95–5827 Filed 3–9–95; 8:45 am]

BILLING CODE 4910–81–P

National Highway Traffic Safety Administration

[Docket No. 94–105; Notice 2]

Decision That Nonconforming 1973 Triumph Spitfire MkIV Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonforming 1973 Triumph Spitfire MkIV passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1973 Triumph Spitfire MkIV passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1973 Triumph Spitfire MkIV), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of the date of its publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an

opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (Registered Importer R–90–005) petitioned NHTSA to decide whether 1973 Triumph Spitfire MkIV passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on January 4, 1995 (60 FR 525) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of the vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 108 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1973 Triumph Spitfire MkIV not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1973 Triumph Spitfire MkIV originally manufactured for importation into and sale in the Untied States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 6, 1995.

Harry Thompson,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–5963 Filed 3–9–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–11; Notice 1]

Ford Motor Co.; Receipt of Application for Decision of Inconsequential Noncompliance

Ford Motor Company (Ford) of Dearborn, Michigan has determined that some of its windows fail to comply with the light transmittance requirements of 49 CFR 571.205, Federal Motor Vehicle Safety Standard (FMVSS) No. 205, ''Glazing Materials,'' and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' Ford has also applied to be exempt from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Standard No. 205, which incorporates by reference, the American National Standards Institute (ANSI) ''Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways'' Z–26.1–1977, January 26, 1977, as supplemented by Z26.1a, July 3, 1980 (ANSI Z26.1), specifies that automotive glazing materials used in front, side and rear windows of passenger cars shall have a regular luminous transmittance of not less than 70 percent of the light, at normal incidence, when measured in accordance with ''Light Transmittance, Test 2'' of ANSI Z–26.1–1980.

During the period of October 1994 through January 21, 1995, Ford manufactured approximately 8,250 1995 Continental vehicles on which the front door windows had a luminous transmittance of approximately 68 percent. According to Ford, miscommunication between Ford Glass production and fabrication plants concerning the properties and intended use of the glass resulted in its being used in the fabrication of windows for use in Continental production. Beginning with vehicle production on January 23, 1995, front door windows with a luminous transmittance of greater than 70 percent have been installed.

Ford supports its application for inconsequential noncompliance with the following:

> In Ford's judgment, the condition is inconsequential as it relates to motor vehicle safety. Computer modeling studies and in-car evaluations previously conducted by Ford to assess the effect of reduced light transmittance windshields showed that even a 5 point reduction in the percentage of light transmittance, from 65 to 60 percent, resulted in a reduction in seeing distance of only 1 to 2 percent during night time driving, and little or no reduction in seeing distance during dusk and daytime driving. Based on these studies, the subject Continental front door windows with 68 percent light transmittance (67.5 percent at the door window installed angle) would be expected to result in no significant reduction (less than 1 percent) in seeing distance during night time driving, and virtually no reduction during dusk and daytime driving, compared to glass with a 70 percent transmittance. Reductions in seeing distances 2 percent or less have no practical or perceivable effect on driver visibility based on observers' reports in vehicle evaluations by Ford of windshields with line-of-sight transmittance in the 60 to 65 percent range.
>
> The stated purpose of FMVSS No. 205 to which the light transmittance requirements are directed is ''to ensure a necessary degree of transparency in motor vehicle windows for driver visibility.'' NHTSA, in its March, 1991 ''Report to Congress on Tinting of Motor Vehicle Windows,'' concluded that the light transmittance of windows of the then new passenger cars that complied with Standard No. 205 did not present an unreasonable risk of accident occurrence. The ''new passenger cars'' that were considered to not present an unreasonable risk had effective line-of-sight light transmittance through the windshields as low as approximately 63 percent (determined by a 1990 agency survey, the results of which were included in the report). While light transmittance and driver visibility through front door windows is important to safe operation of motor vehicles, it is not as important as driver visibility through vehicle windshields. It follows that if light transmittance levels as low as 63 percent through windshields do not present an unreasonable risk to safety, then the side window glass in the subject Continentals also present no unreasonable risk to safety.
>
> Therefore, while the use of front window glazing with luminous transmittance less than 70 percent is technically a noncompliance, we believe the condition presents no risk to motor vehicle safety.

Interested persons are invited to submit written data, views, and arguments on the application of Ford, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street NW, Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extend possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: April 10, 1995.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 501.8)

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–5964 Filed 3–9–95; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Information Collection Submitted to OMB for Review

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Office of the Comptroller of the Currency (OCC) hereby gives notice that it has sent to the Office of Management and Budget (OMB) a Paperwork Reduction Act Submission regarding an information collection titled Examination Questionnaire.

DATES: Comments on this information collection are welcome and should be submitted by March 31, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the OCC contact.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Office of the Comptroller of the Currency (OCC) has sent to the Office of Management and Budget (OMB) a Paperwork Reduction Act Submission regarding the following information collection:

Type of Review: Expedited.

Title: Examination Questionnaire.

Description: The OCC will collect information from each recently examined financial institution regarding bank management's views on the OCC examination. The OCC will use this information to resolve identified difficulties in the examination process, and to improve its service to the banking industry. This is a revision of a similar information collection approved under the same OMB Control Number and titled Customer Service Information Collections.

Form Number: CC 2000–01.

OMB Number: 1557–0199.

Respondents: Businesses or other for-profit.

Number of Respondents: 3,200.

Total Annual Responses: 4,800.

Average Hours Per Response: 10 minutes.

Total Annual Burden Hours: 800.

OMB Reviewer: Milo Sunderhauf, (202)395–7340, Paperwork Reduction Project 1557, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

OCC Contact: John Ference or Jessie Gates, (202)874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Comments: Comments regarding the submission should be addressed to both the OMB reviewer and the OCC contact listed above.

Dated: March 6, 1995.

James F.E. Gillespie,

Director, Legislative & Regulatory Activities.

[FR Doc. 95–5877 Filed 3–9–95; 8:45 am]

BILLING CODE 4810–33–P

Information Collection Submitted to OMB for Review

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Office of the Comptroller of the Currency (OCC) hereby gives notice that it has submitted to the Office of Management and Budget (OMB) a request for OMB review of an information collection titled (MA)—Reports of Condition and Income (Interagency Call Report).

DATES: Comments on this collection of information are welcome and should be submitted by March 27, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the OCC contact at the Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219. ATTN: 1557–0081.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Office of the Comptroller of the Currency (OCC) has submitted to the Office of Management and Budget (OMB) a request for OMB review of the following information collection:

Type of Review: Revision—Expedited.

Title: (MA)—Reports of Condition and Income (Interagency Call Report).

Description: National banks file reports pursuant to 12 U.S.C. 161 and other statutes. Data are used to evaluate and monitor the financial condition and earnings performance of individual banks as well as the entire banking industry.

The more significant proposed changes include expanded disclosures about a bank's involvement with off-balance-sheet activities, certain types of securities and certain reciprocal demand balances needed for deposit insurance assessment purposes. Further, the agencies would delete certain existing items, such as information regarding mandatory convertible debt, quarterly reconcilement of the agricultural loan loss deferral account, recoveries of ''Special-Category Loans.'' Finally, the agencies would make several clarifying changes to the instructions.

Form Number: FFIEC 031, 032, 033, and 034.

OMB Number: 1557–0081.

Respondents: Businesses or other for-profit.

Number of Respondents: 3,400.

Total Annual Responses: 13,600.

Average Number of Hours Per Response: 37.9.

Total Annual Burden Hours: 515,440.

OMB Reviewer: Milo Sunderhauf, (202)395–7340, Paperwork Reduction Project 1557–0081, Office of Management and Budget, Washington, DC 20503.

OCC Contact: John Ference or Jessie Gates, (202) 874–5090, Legislative and Regulatory Activities Division.

Comments: Comments regarding the submission should be addressed to both the OMB reviewer and the OCC contact listed above.

Dated: March 6, 1995.

James F. E. Gillespie,

Director, Legislative & Regulatory Activities.

[FR Doc. 95–5878 Filed 3–9–95; 8:45 am]

BILLING CODE 4810–33–P

[Docket No. 95–05]

Preemption Determination

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing for comment a written request for the OCC's determination of whether Federal law preempts the application of a Texas regulation that prescribes certain requirements relating to the signs and advertising used to identify branch

banking facilities located in Texas. This notice and request for comment is provided pursuant to section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. It is intended to provide interested persons with an opportunity to provide comments prior to the OCC's issuance of a final opinion letter responding to the request.

DATES: Comments should be submitted on or before April 10, 1995.

ADDRESSES: Comments should be sent to the Communications Division, 250 E Street SW., Third Floor, Washington, DC 20219. Attention: Docket No. 95–05. Comments will be available for inspection and photocopying at the same location. Appointments for inspection of comments can be made by calling (202) 874–4700.

FOR FURTHER INFORMATION CONTACT: Sue E. Auerbach, Senior Attorney, Bank Activities and Structure Division, (202) 874–5300.

SUPPLEMENTARY INFORMATION:

Background

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (section 114), Pub. L. 103–328 (12 U.S.C. 43), generally requires the OCC to publish in the **Federal Register** a descriptive notice of certain requests that the OCC receives for preemption determinations. The OCC must publish this notice before it issues any opinion letter or interpretive rule concluding that Federal law preempts the application to a national bank of any State law regarding community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches (four designated areas). The OCC must give interested persons at least 30 days to submit written comments, and must consider the comments in developing the final opinion letter or interpretive rule. The OCC must publish in the **Federal Register** any final opinion letter or interpretive rule that concludes that Federal law preempts State law in the four designated areas. Section 114 also provides certain exceptions, not applicable to the present request, to the **Federal Register** publication requirements.

Specific Request for OCC Preemption Determination

The OCC has been asked to determine whether Federal law preempts the application of Texas Rule 3.92, 7 Tex. Admin. Code Section 3.92 (Rule), ''Naming and Advertising of Branch Facilities,'' in its entirety, to national banks. The Rule was adopted by the Texas State Finance Commission on August 19, 1994, pursuant to Texas Civil Statutes Section 342–917, ''Identification of Facilities,'' which generally provides that a bank may not use any form of advertising that implies or tends to imply that a branch facility is a separate bank.

The Rule prohibits advertising of a branch facility in a manner which implies or fosters the perception that a branch facility is a separate bank. While the Rule applies to all banks located in Texas, its provisions and prohibitions would most directly affect those banks that have what might be termed a ''generic name'' followed by a ''geographic modifier'' (*e.g.*, First National Bank of Dallas, Second State Bank of Austin), rather than what the Rule terms a ''unique legal name'' such as ''Jones National Bank'' or ''Smith Bank.'' The principal provisions of the Rule include the following:

1. Upon acquisition of one bank to serve as a branch of another bank, use of the prior name of the extinguished bank to identify the acquired bank facility is prohibited on all signs, advertising and bank documents.

2. A sign directing the public to a branch facility must contain either the legal name of the bank or a unique logo, trademark, or service mark of the bank. If a separate identifying name is used for the branch facility that either contains the word ''bank'' or does not contain the word ''branch'' and further does not identify the facility as a branch, then an additional sign at the branch facility must identify the legal name of the bank and identify the facility as a branch. This additional sign, for example, could consist of lettering on the entrance door or any other lettering visible to the public.

3. The legal name of a bank is the full bank name as reflected in its charter, except that in signs and advertising a bank may omit terms which are either indicators of corporate status (N.A., Inc., Corp., L.B.A.) or geographic modifiers. However, where a bank without a unique legal name proposes to establish a branch facility (other than one within the city of domicile) within the same city as or within a 30-mile radius of a pre-existing facility of a bank with the same or substantially similar legal name, the bank must either include the geographic modifier on its signs, disclose the city of its domicile on all signs directing the public to the branch, or else put up a separate sign notifying the public that the facility is a branch.

4. If a bank without a unique legal name chooses not to place the signs as described in the foregoing paragraph, then the Rule requires the bank to provide notice to all existing bank facilities of other banks within the same banking market as the proposed branch location that have the same or substantially similar legal name, disregarding geographic modifiers, specifically advising the recipient of the name to be used in connection with the proposed branch facility. Banks so notified then have the opportunity to file a protest regarding the name of the proposed branch with the Texas State Banking Commission (for state banks) or with the OCC (for national banks).

5. While banks in Texas, like other businesses, may operate under an assumed or professional name, they may not use an assumed name to evade the Rule.

6. The Rule does not prescribe specifics such as number, size, or location of signs, size of lettering, and so on. Further, it does not require that branch names, signs, or advertising be approved by any regulatory authority.

Request for Comments

The OCC requests comments on all aspects of the request for a determination of whether the application of the Rule to national banks is preempted by Federal law.

Dated: March 6, 1995.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 95–5879 Filed 3–9–95; 8:45 am]

BILLING CODE 4810–33–P

Fiscal Service

[Dept. Circ. 570, 1994 Rev., Supp. No. 13; 4–00236]

Harco National Insurance Company; Surety Companies Acceptable on Federal Bonds; Redomestication

Harco National Insurance Company has redomesticated from the state of New York to the State of Illinois effective December 31, 1994. The company was last listed as an acceptable surety on Federal bonds at 59 FR 34158, July 1, 1994.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1994 revision, on page 34158 to reflect this change.

Questions concerning this notice may be directed to the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, 3700 East West Highway, Rm. 6F04, Hyattsville, MD 20782, telephone (FTS/202) 874–6507.

Dated: March 3, 1995.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 95–5859 Filed 3–9–95; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1994—Rev., Supp. No. 11; 4–00236]

Municipal Bond Investors Assurance Corporation; Surety Companies Acceptable on Federal Bonds; Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Municipal Bond Investors Assurance Corporation of Armonk, New York, under the United States Code, Title 31, Sections 9304–9308 to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 59 FR 34166, July 1, 1994, and subsequently suspended effective December 20, 1994, at 60 FR 531, January 4, 1995.

With respect to any surety bonds currently in force with Municipal Bond Investors Assurance Corporation, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, Hyattsville, MD 20782, telephone (202/FTS) 874–6779.

Dated: February 28, 1995.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 95–5860 Filed 3–9–95; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1994 Rev., Supp. No. 12; 4–00236]

Reliance Surety Company; Surety Companies Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1994 Revision, on page 34174 to reflect this addition:

Reliance Surety Company. Business Address: 4 Penn Center Plaza, Philadelphia, Pennsylvania 19103. Phone: (215) 864–4000. Underwriting Limitation *b/*: $1,262,000. Surety Licenses *c/*: AL, AK, AZ, AR, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WV, WI, WY. Incorporated in: Delaware.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Hyattsville, MD, telephone (202) 874–6905.

Dated: March 3, 1995.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 95–5861 Filed 3–9–95; 8:45 am]

BILLING CODE 4810–35–M

Public Information Collection Requirements Submitted to OMB for Review

March 2, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Comptroller of the Currency (OCC)

OMB Number: 1557–0124.

Form Number: TA–1.

Type of Review: Revision.

Title: Uniform Form for Registration and Amendment to Registration as a Transfer Agent.

Description: This form is used by national banks and national bank subsidiaries for registration and amendment to registration as a transfer agent.

Respondents: Businesses or other for-profit.

Estimated Number of Recordkeepers: 105.

Estimated Burden Hours Per Recordkeeper: 1 hour, 15 minutes.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 46 hours.

Clearance Officer: John Ference (202) 874–4697, Comptroller of the Currency, 250 E Street, S.W., Washington, DC 20219.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–5874 Filed 3–9–95; 8:45 am]

BILLING CODE 4810–33–P

Public Information Collection Requirements Submitted to OMB for Review

March 3, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0367.

Form Number: IRS Forms 4804 and 4801.

Type of Review: Revision.

Title: Transmittal of Information Returns Reported Magnetically/ Electronically (4804); Transmittal of Information Returns Reported Magnetically/ Electronically (Continuation of Form 4804) (4802).

Description: 26 U.S.C. 6041 and 6042 require all persons engaged in a trade or business and making payments of taxable income must file reports of this income with the Internal Revenue Service (IRS). In certain cases, this information must be filed on magnetic media. Forms 4804 and 4802 are used to provide a signature and balancing totals for magnetic media filers of information returns.

Respondents: Individuals or households, Business or other for-profit,

Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 37,640.

Estimated Burden Hours Per Respondent:

Preparing form 4804—18 min.

Preparing form 4802—20 min.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 45,406 hours.

OMB Number: 1545–1226.

Regulation ID Number: FI–59–89 Final.

Type of Review: Extension.

Title: Proceeds of Bonds Used for Reimbursement.

Description: The rules require record maintenance by a State or Local Government or section 501(c)(3) organization issuing tax-exempt bonds (''Issuer'') to reimburse itself for previously-paid expenses. This recordkeeping will establish that the Issuer had an intent, when it paid an expense, to later issue a reimbursement bond.

Respondents: Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Recordkeepers: 2,500.

Estimated Burden Hours Per Recordkeeper: 2 hours, 24 minutes.

Frequency of Response: On occasion, Weekly, Monthly, Quarterly, Semi-annually, Annually, Biennially, Other.

Estimated Total Recordkeeping Burden: 6,000 hours.

OMB Number: 1545–1296.

Regulation ID Number: PS–27–91 (TD 8442) Final.

Type of Review: Extension.

Title: Procedural Rules for Excise Taxes Currently Reportable on Form 720.

Description: Section 6302(c) authorizes the use of Government depositaries. These regulations provide reporting and recordkeeping rules relating to the use of Government depositaries for taxes imposed by chapter 33 of the Code.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 9,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—60 hours.

Reporting—30 minutes.

Frequency of Response: On occasion, Quarterly, Other.

Estimated Total Recordkeeping Burden: 241,850 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–5875 Filed 3–9–95; 8:45 am]

BILLING CODE 4830–01–P

Sunshine Act Meetings

Federal Register

Vol. 60, No. 47

Friday, March 10, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

ASSASSINATION RECORD REVIEW BOARD

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: 60 FR 9722, Feb. 20, 1995.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1:30 p.m., March 7, 1995.

CHANGES IN THE MEETING: The place of the meeting has been changed to: Fifth Floor Theater, National Archives and Records Administration, 7th and Pennsylvania Ave., NW, Washington, D.C. 20408.

CONTACT PERSON FOR MORE INFORMATION: Thomas Samoluk, Press and Public Affairs Officer, 600 E Street, NW, Second Floor, Washington, D.C. 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

Sheryl L. Walter,

General Counsel.

[FR Doc. 95–6112 Filed 3–8–95; 2:55 pm]

BILLING CODE 6820–TD–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:13 a.m. on Tuesday, March 7, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory and corporate activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Tigert Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a close meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: March 7, 1995.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary.

[FR Doc. 95–6084 Filed 3–8–95; 11:10 am]

BILLING CODE 6714–01–M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: March 15, 1995, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 626th Meeting—March 15, 1995, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 2587–003, Northern States Power Company—Wisconsin
CAH–2.
Project No. 11459–002, Washington County Water Conservancy District
CAH–3.
Project No. 1869–011, Montana Power Company
CAH–4.
Omitted
CAH–5.
Project No. 4632–019, Clifton Power Corporation
CAH–6.
Omitted
CAH–7.
Omitted
CAH–8.
Project No. 7192–003, Eagle Hydro Partners
CAH–9.
Project No. 11240–000, Swanton Village, Vermont
Project No. 11241–000, Vermont Hydro Associates

Consent Agenda—Electric

CAE–1.
Docket Nos. ER95–457–000, ER94–961–001 and ER95–469–000, Florida Power Corporation
CAE–2.
Docket No. ER94–1561–000, Citizens Utilities Company
CAE–3.
Docket No. ER95–342–000, PacifiCorp
CAE–4.
Docket No. ER94–1114–000, Puget Sound Power & Light Company
CAE–5.
Docket No. ER92–242–000, Allegheny Generating Company
Docket No. EL92–10–000, Consumer Advocate Division of The West Virginia Public Service Commission, et al. v. Allegheny Generating Company
Docket No. EL94–24–000, Consumer Advocate Division of the West Virginia Public Service Commission, et al. v. Allegheny Generating Company
CAE–6.
Docket No. TX94–5–000, Old Dominion Electric Cooperative, Inc.
Docket No. ER94–1319–000, Delmarva Power & Light Company
CAE–7.
Docket No. ER94–692–001, Concord Electric Company
CAE–8.
Docket Nos. ER93–523–000, 002, ER93–533–000 and 002, Western Resources, Inc. and Kansas Gas & Electric Company
CAE–9.
Docket Nos. ER94–1625–001 and ER95–264–001, Wisconsin Electric Power Company
CAE–10.
Docket No. AC91–110–001, PacifiCorp
CAE–11.
Docket No. ER94–1691–002, AIG Trading Corporation
CAE–12.
Docket No. QF83–333–004, Cal Ban Corporation
CAE–13.
Docket No. RM92–12–001, Streamlining of Regulations Pertaining to Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978
CAE–14.
Docket No. RM93–20–001, Electronic Filing of Form No. 1 and Delegation to Chief Accountant
CAE–15.
Docket No. EL95–27–000, CGE Fulton, L.L.C.
CAE–16.
Docket No. AC95–53–000, Appalachian Power Company

Consent Agenda—Oil and Gas

CAG–1.
Docket Nos. RP92–237–012, 013, 014, 015, RP95–60–001 and RP95–168–000, Alabama-Tennessee Natural Gas Company
CAG–2.
Docket No. RP95–160–000, Texas Gas Transmission Corporation
CAG–3.
Docket No. RP95–164–000, Texas Eastern Transmission Corporation
CAG–4.
Docket No. TM95–8–29–000, Transcontinental Gas Pipe Line Corporation
CAG–5.
Docket No. RP95–170–000, Granite State Gas Transmission, Inc.
CAG–6.
Docket No. RP95–161–000, Northern Natural Gas Company
CAG–7.
Docket No. RP95–165–000, Pacific Gas Transmission Company
CAG–8.
Omitted
CAG–9.
Omitted
CAG–10.
Docket No. GT94–50–000, East Tennessee Natural Gas Company
CAG–11.
Docket No. GT95–10–000, Texas Eastern Transmission Corporation
CAG–12.
Docket Nos. RP94–157–000, TM95–2–21–001, 002 and TM95–3–21–001, Columbia Gas Transmission Corporation
CAG–13.
Docket No. RP94–341–001, Texas Gas Transmission Corporation
CAG–14.
Docket No. RP95–119–000, Columbia Gas Transmission Corporation
CAG–15.
Docket No. TM95–2–22–000, CNG Transmission Corporation
CAG–16.
Docket Nos. CP93–505–000, 003, 004 and RP95–162–000, Panhandle Eastern Pipe Line Company
Docket No. CP93–506–003 and 004, Panhandle Gathering Company
CAG–17.
Omitted
CAG–18.
Docket No. RP92–122–003, Trunkline LNG Company
CAG–19.
Docket Nos. RP93–184–002, RP93–185–003 and RP94–76–001, Carnegie Natural Gas Company
CAG–20.
Docket Nos. RP95–26–000, RP94–218–000 and RP94–106–000, Pacific Gas Transmission Company
CAG–21.
Docket No. RP94–394–000, Panhandle Eastern Pipe Line Company
CAG–22.
Omitted
CAG–23.
Docket No. RP95–56–000, Questar Pipeline Company
CAG–24.
Omitted
CAG–25.
Docket No. RP93–14–000, Algonquin Gas Transmission Company
CAG–26.
Docket No. PR94–11–000, Olympic Pipeline Company
CAG–27.
Omitted
CAG–28.
Docket Nos. RP94–179–002, RP94–86–002 and RP94–252–002, Natural Gas Pipeline Company of America
CAG–29.
Omitted
CAG–30.
Docket No. RP94–286–001, Richmond Power Enterprise, L.P.
CAG–31.
Docket No. RP95–22–001, ANR Pipeline Company
CAG–32.
Docket No. RP95–30–001, Koch Gateway Pipeline Company
CAG–33.
Docket No. RP95–37–002, South Georgia Natural Gas Company
CAG–34.
Docket Nos. RP85–39–019 and 020, Wyoming Interstate Company, Ltd.
CAG–35.
Docket Nos. TM94–4–34–004 and 005, Florida Gas Transmission Company
CAG–36.
Docket No. RP91–203–051, Tennessee Gas Pipeline Company
CAG–37.
Docket No. RP95–97–000, Questar Pipeline Company v. PacifiCorp
CAG–38.
Omitted
CAG–39.
Omitted
CAG–40.
Docket No. CP93–200–003, CNG Transmission Corporation
Docket No. CP93–198–003, Big Sandy Gas Company
CAG–41.
Docket No. CP93–258–004, Mojave Pipeline Company
CAG–42.
Docket No. CP93–412–001, Northwest Pipeline Corporation
CAG–43.
Docket No. CP93–552–002, Carnegie Natural Gas Company and Carnegie Interstate Pipeline Company
CAG–44.
Docket No. CP94–109–001, Transcontinental Gas Pipe Line Corporation
CAG–45.
Docket No. CP94–219–001, Tennessee Gas Pipeline Company
CAG–46.
Docket No. CP94–286–001, Northern Natural Gas Company
Docket No. CP94–574–001, Peach Ridge Pipeline, Inc.
CAG–47.
Docket Nos. CP92–184–004, 007 and 009, Texas Eastern Transmission Corporation
CAG–48.
Docket No. CP94–740–000, Williams Natural Gas Company
CAG–49.
Docket No. CP95–179–000, Havre Pipeline Company, LLC
CAG–50.
Docket No. CP94–319–000, TCP Gathering Company
CAG–51.
Docket No. CP94–672–000, Colorado Interstate Gas Company
CAG–52.
Docket No. CP94–575–000, El Paso Natural Gas Company
CAG–53.
Docket No. CP94–591–000, Williams Natural Gas Company
CAG–54.
Docket No. CP89–1525–006, Northwest Pipeline Corporation
CAG–55.
Omitted
CAG–56.
Docket No. PR94–10–000, AIM Pipeline Company
CAG–57.
Docket No. RP95–169–000, K N Interstate Gas Transmission Company
CAG–58.
Docket Nos. RP94–422–000 and 001, Texas Gas Transmission Corporation
CAG–59.
Docket Nos. RP93–198–003 and 004, Alabama-Tennessee Natural Gas Company

Hydro Agenda

H–1.
Docket No. RM93–7–000, Charges and Fees for Hydroelectric Projects. Final Rule.

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Reserved

II. Pipeline Certificate Matters

PC–1.
Reserved

Dated: March 8, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–6167 Filed 3–8–95; 3:51 pm]

BILLING CODE 6717–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, March 15, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no discussion of the following items is anticipated. These matters will be voted

on without discussion unless a member of the Board requests that the items be moved to the discussion agenda.

1. Proposed amendments to Regulation E (Electronic Fund Transfers) regarding identification of consumer accounts on terminal receipts at automated teller machines (ATMs). (Proposed earlier for public comment; Docket No. R–0859)

2. Proposed amendments to Regulation Z (Truth in Lending) concerning ''reverse mortgages'' and high-rate or high-fee mortgages. (Proposed earlier for public comment; Docket No. R–0858).

3. Any items carried forward from a previously announced meeting.

Discussion Agenda

Please Note That No Discussion Items Are Scheduled For This Meeting.

Note: If the items are moved from the Summary Agenda to the Discussion Agenda, discussion of the items will be recorded. Cassettes will then be available for listening in the Board's Freedom of Information Office, and copies can be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: March 8, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–6074 Filed 3–8–95; 10:56 am]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:15 a.m., Wednesday, March 15, 1995, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 8, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–6075 Filed 3–8–95; 10:56 am]

BILLING CODE 6210–01–P

LEGAL SERVICES CORPORATION

Board of Directors Meeting—Changes

PREVIOUS FEDERAL REGISTER CITATION: 60 FR 12824.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: The Legal Services Corporation Board of Directors will meet on March 18, 1995. The meeting will commence at 9:00 a.m. on March 18, 1995.

PREVIOUSLY ANNOUNCED LOCATION OF MEETING: Legal Services Corporation, 750 1st Street, N.E., Board Room, 11th Floor, Washington, D.C. 2002, (202) 336–8800.

CHANGES TO THE MEETING:

TIME AND DATE: The Legal Services Corporation Board of Directors has increased the number of days it will meet to two. The two-day meeting will now commence at 4:00 p.m. on March 17, 1995, and will reconvene at 9:00 a.m. on March 18, 1995.

The agenda published originally remains unchanged. However, it is anticipated that proposed changes to the Corporation's bylaws will be considered on Friday, March 17, 1995. All other agenda items are expected to be taken in order.

CONTACT PERSON FOR INFORMATION: Patricia Batie (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: March 8, 1995.

Patricia D. Batie

Corporate Secretary.

[FR Doc. 95–6102 Filed 3–8–95; 8:45 am]

BILLING CODE 7050–01–M

Corrections

Federal Register
Vol. 60, No. 47
Friday, March 10, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 372

[Docket No. 93-165-3]
RIN 0579-AA33

National Environmental Policy Act Implementing Procedures

Correction

In rule document 95–2450 beginning on page 6000 in the issue of Wednesday, February 1, 1995, make the following corrections:

§ 372.5 [Corrected]

1. On page 6004, in the first column, in § 372.5(d), in the eighth line, the second ''and'' should read ''an''.

§ 372.6 [Corrected]

2. On page 6004, in the second column, in § 372.6, in the second line from the bottom, ''opportunities'' should read ''opportunity''.

§ 372.7 [Corrected]

3. On page 6004, in the second column, in § 372.7, in the second line, ''programs'' should read ''program''.

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 95-007-1]

Receipt of Petition for Determination of Nonregulated Status for Genetically Engineered Corn

Correction

In notice document 95–4182 beginning on page 9656 in the issue of Thursday, February 21, 1995, make the following corrections:

1. On page 9656, in the second column, under **SUPPLEMENTARY INFORMATION**, in the first paragraph, in the third line, ''Information'' should read ''Introduction''.

2. On the same page, in the third column, in the second full paragraph, in the sixth line, ''protein'' should read ''protoxin''; and in the seventh line from the bottom, ''market'' should read ''marker''.

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 94-139-1]

Receipt of Petition for Determination of Nonregulated Status for Genetically Engineered Cotton

Correction

In notice document 95–3290 beginning on page 7746 in the issue of Thursday, February 9, 1995, make the following corrections:

1. On page 7746, in the second column, in the last paragraph, in the third line from the bottom, ''Bollgard'' was misspelled.

2. On the same page, in the third column, in the second full paragraph, in the fourth line, ''phosphotransferase'' was misspelled.

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 94-128-1]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

Correction

In notice document 95–423 beginning on page 2372 in the issue of Monday, January 9, 1995, make the following correction:

On page 2372, in the table, in the second entry, in the last column, ''Illinois.'' was omitted.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-050-1220-00-24-1A]

Supplemental Shooting Regulations

Correction

Notice document 95-3273, beginning on page 7743 in the issue of February 9, 1995, was inadvertently published in the proposed rule section of that issue. It should have appeared in the Notices section and the ≥43 CFR Part 8360≥ citation should not have been included as part of the document.

BILLING CODE 1505–01–D

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Appendix G to Chapter 7

[AIDAR Notice 95-1]

Miscellaneous Amendments to Acquisition Regulations

Correction

In rule document 95–4111 beginning on page 11911 in the issue of Friday, March 3, 1995, make the following corrections:

Appenix G to Chapter 7 [Corrected]

On page 11913, in the first column, in Appendix G to Chapter 7, in 2.(a), the last two lines should read ''negotiate and execute contracts (see AIDAR Appendix A).''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-59-91]
RIN 1545-AQ86

Debt Instruments With Original Issue Discount; Contingent Payments

Correction

In proposed rule document 94–30728 beginning on page 64884 in the issue of Friday, December 16, 1994, make the following correction:

§ 1.1275-4 [Corrected]

On page 64899, in the first column, in § 1.1275-4(b)(9), in the second line, insert ''apply'' after ''(b)(9)''.

BILLING CODE 1505–01–D

federal register

Friday
March 10, 1995

Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 571

Medium and Heavy Vehicles; Stability and Control During Braking, Stopping Distance Requirements for Vehicles Equipped With Air and Hydraulic Brake Systems; Final Rules

49 CFR Part 393

Antilock Brake Systems for Commercial Motor Vehicles; Proposed Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 92–29; Notice 5]
[Docket No. 93–69; Notice 2]

RIN 2127–AA00
RIN 2127–AE75

Federal Motor Vehicle Safety Standards; Stability and Control of Medium and Heavy Vehicles During Braking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: In response to the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, this final rule amends Standard No. 105, *Hydraulic Brake Systems,* and Standard No. 121, *Air Brake Systems,* to require medium and heavy vehicles to be equipped with an antilock brake system (ABS) to improve the directional stability and control of these vehicles during braking. For truck tractors, the ABS requirement is supplemented by a 30-mph braking-in-a-curve test on a low coefficient of friction surface using a full brake application. By improving directional stability and control, these requirements will significantly reduce deaths and injuries caused by jackknifing and other losses of directional stability and control during braking.

In addition, this final rule requires all powered heavy vehicles to be equipped with an in-cab lamp to indicate ABS malfunctions. Truck tractors and other towing trucks are required to be equipped with two separate in-cab lamps: one indicating malfunctions in the towing truck ABS and the other indicating malfunctions in the towed trailer or dolly ABS. Trailers produced during an initial eight-year period must also be equipped with an external malfunction indicator that will be visible to the driver through the rearview mirror of the towing truck or tractor. More specifically, the external trailer indicator will indicate an ABS malfunction to the driver, if the trailer is being towed by an older vehicle that is not equipped with an in-cab lamp for trailer ABS malfunction indication. In general, the indicators will provide valuable information about ABS malfunctioning to the driver and to maintenance and Federal and State inspection personnel.

DATES: *Effective Dates:* The amendments to 49 CFR 571.105 become effective on March 1, 1999. The amendments to 49 CFR 571.121 become effective on March 1, 1997. Compliance to § 571.121 with respect to air-braked trailers and single unit trucks and buses will be required as of March 1, 1998.

Petitions for Reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA no later than April 10, 1995.

ADDRESSES: Petitions for reconsideration of this rule should refer to Docket 92–29; Notice 5 and should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202) 366–5892.

SUPPLEMENTARY INFORMATION:

I. Overview

As part of NHTSA's plans to improve the braking performance of medium and heavy vehicles,[1] this final rule amends the agency's two brake standards for those vehicles by adopting requirements to improve the directional stability and control characteristics of these vehicles while braking. The two Federal Motor Vehicle Safety Standards (FMVSSs) are Standard No. 105, *Hydraulic Brake Systems,* and Standard No. 121, *Air Brake Systems.* In formulating this final rule, NHTSA has relied on extensive fleet studies of tractor trailer combinations equipped with antilock systems, road testing of such vehicles at the agency's Vehicle Research Test Center (VRTC), review of its Fatal Accident Reporting Systems (FARS) data and other crash data, the positive experience with ABS-equipped heavy vehicles in Europe and throughout the world, comments to the public docket about this rulemaking, and other available information.

In order to fully understand the safety problem being addressed by this rulemaking, it is necessary to examine in detail the reasons for wheel lockup and the consequences of such lockup. Moreover, in order to fully understand the reasons for the agency's decision to require that heavy vehicles be equipped with a closed-loop ABS, it is necessary to understand the general characteristics of brake systems, the force-generating characteristics of tires, and the interactions between brake systems and tires.

To provide the reader with a means for gaining this understanding, NHTSA has included an Appendix in this document, which provides a discussion of basic service brake systems, loss-of-control crashes, and ABS characteristics. The Appendix discusses the types of heavy brake systems that

[1] Hereinafter referred to as ''heavy vehicles.''

are currently in use, how brake systems work, and why lockup occurs. It also discusses the force-generating characteristics of tires and how they are affected by varying levels of wheel slip and the need to take these characteristics into account in addressing the problem of loss-of-control crashes. Finally, the Appendix discusses the need for ABS and describes their method of operation. Several terms, such as ''wheel slip'' that are used throughout this notice are discussed in detail and defined in the Appendix. When terms whose precise meaning affects the understanding of the agency's rationale are introduced, the reader could refer to the Appendix for a discussion of the term.

Therefore, readers who lack a technical background and who desire a more complete understanding of this rulemaking may wish at this point to read the Appendix before moving on to the rest of the preamble.

NHTSA has decided to require the installation of ''closed-loop'' [2] antilock systems on all heavy vehicles. The agency, in accordance with Supreme Court precedent that required the agency to consider mandating the installation of a particular type of automatic restraint system (i.e., ''airbags only'') for passenger cars,[3] is adopting a rule that defines antilock brake systems, in performance terms, as systems that ''automatically control the degree of rotational wheel slip [4] during braking'' through sensors and transmitters that measure, transmit, and generate signals concerning the rate of wheel angular rotation to controlling devices which adjust brake application pressure to prevent wheel lockup. In addition, for truck tractors, the rule prescribes a 30-mph braking-in-a-curve dynamic test on a low coefficient of friction surface.

Although some commenters characterized NHTSA's definition as an impermissible design standard, NHTSA has specifically sought to avoid imposing unnecessary design restrictions or impeding the future development of ABS, by adopting a definition that permits any antilock brake system that ensures feedback between what is actually happening at the tire-road surface interface and what the device is doing to respond to excessive wheel slip. To the extent that NHTSA's definition restricts design choices, e.g., by requiring a ''feedback'' system in which control devices must respond to signals that monitor wheel slip, the requirements are stated broadly and in performance terms. Such an approach is consistent with that adopted in numerous other Federal Motor Vehicle Safety Standards, including Standard No. 108 which requires vehicles to be equipped with specified lamps and reflective devices, Standard No. 111 which requires that vehicles be equipped with rearview mirrors, and Standard No. 208 which requires vehicles be equipped with safety belts.

Moreover, the United States Court of Appeals for the Sixth Circuit has upheld a dimensional restriction on rectangular headlamps, reasoning that ''uniformity of headlamp size is an element of headlamp performance.'' [5] Accordingly, NHTSA has decided to reject the conceptual objections to ''closed-loop'' ABS systems expressed by commenters whose economic self-interest militates against the requirement, including manufacturers of alternative, non-electronic braking systems that are incapable of sensing and adjusting braking pressures to control that wheel slip, and an association of fleet owners that may wish to avoid incurring the added expense of purchasing vehicles that are equipped with electronic ABS systems.

Currently, all powered [6] heavy vehicles equipped with ABS are required to be equipped with an in-cab ABS malfunction indicator lamp indicating malfunctions in the powered vehicle's ABS. Today's final rule requires trucks (including truck tractors) equipped to tow another air-braked vehicle to be equipped with another, separate in-cab lamp indicating malfunctions in the ABS(s) of the towed vehicle(s). For an eight-year period, the amendment requires trailers to be equipped with an external ABS malfunction indicator that will be visible to the driver of the towing truck or truck tractor through the rearview mirror. In particular, the external trailer indicator lamp will provide information to the driver, if the trailer is being towed by an older vehicle that is not equipped with an in-cab lamp indicating trailer ABS malfunctions. In general, the indicators will provide valuable information about ABS malfunctioning to the driver and to maintenance and Federal and State inspection personnel.

In separate, related documents published elsewhere in today's **Federal Register**, NHTSA announces its decision to reinstate stopping distance requirements for air-braked heavy vehicles and to establish such requirements for hydraulically-braked heavy vehicles. In addition, to carry out the antilock requirement, the Federal Highway Administration (FHWA) is announcing its intent to require such systems on heavy vehicles to be operational.

NHTSA is issuing this final rule on directional stability and control pursuant to the Motor Carrier Act of 1991, a part of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. Section 4012 directs the Secretary of Transportation to initiate rulemaking concerning methods for improving braking performance of new commercial motor vehicles,[7] including truck tractors, trailers, and their dollies. Congress specifically directed that such a rulemaking examine antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. The Act requires that the rulemaking be consistent with the Motor Carrier Safety Act of 1984 (49 U.S.C. § 31147) and be carried out pursuant to, and in accordance with, the National Traffic and Motor Vehicle Safety Act of 1966 (Safety Act) (49 U.S.C. 30101 *et seq.*).

NHTSA notes that, in the mid-1970's, Standard No. 121 was amended to include stringent stopping distance requirements, coupled with a ''no lockup'' requirement, which had the effect of requiring heavy vehicles to be equipped with antilock brake systems. In response to a legal challenge, the U.S. Court of Appeals for the 9th Circuit invalidated the stopping distance and ''no lockup'' requirements in Standard No. 121, along with certain other provisions, holding that the standard was ''neither reasonable nor practicable at the time it was put into effect.'' [8]

As explained throughout this document, the underlying conditions related to equipping heavy vehicles with antilock brake systems differ markedly from 20 years ago when the petitioners challenged the agency in *PACCAR.* First, antilock brake technology has advanced dramatically since the mid-1970's, and antilock brake systems are now in widespread, everyday use, both in this country and

[2] A closed-loop (control) system is one which examines the output of the system and adjusts the input to the system in response to that output. This inclusion of the output (or some function of the output) as part of the input to such a system is referred to as feedback.

[3] (*Motor Vehicle Manufacturers' Association* v. *State Farm Insurance,* 463 U.S. 29, (1983))

[4] See the Appendix for a discussion of this term and directional stability.

[5] *Chrysler Corp.* v. *DOT,* 515 F.2d 1053, 1058–59 (1975).

[6] By powered vehicle, the agency means a vehicle equipped with an engine that propels the vehicle. In contrast, a non-powered vehicle, such as a trailer, is towed by another vehicle.

[7] Vehicles with a gross vehicle weight rating (GVWR) of 26,001 or more pounds.

[8] *PACCAR* v. *NHTSA,* 573 F.2d 632 (9th Cir. 1978), *cert. denied,* 439 U.S. 862 (1978)

throughout the world. Second, NHTSA's extensive fleet study about heavy vehicle antilock systems demonstrates that these systems are reliable when placed in use. Third, the agency's testing of truck tractors equipped with antilock systems indicates that they provide significantly improved directional stability and control compared to vehicles without antilock systems. Fourth, while the antilock systems used in the mid-1970s also incorporated significantly larger, more aggressive foundation brakes, which were sometimes incompatible with less aggressive systems on existing vehicles when the antilock system malfunctioned, the requirements being adopted today do not necessitate such aggressive brakes. Therefore, they do not have the potential for creating a more dangerous highway environment. Fifth, the performance requirements adopted in today's final rule do not raise practicability concerns. Based on these and other considerations discussed throughout this document, NHTSA believes that today's final rule satisfies the concerns raised by the *PACCAR* court.

II. Background

A. The Safety Problem: Loss of Control Crashes

Crashes involving heavy vehicles result in a significant number of fatalities and injuries, and a significant amount of property damage each year. Based on available statistics, NHTSA has estimated the number of crashes in 1992 for several different groups of heavy vehicles. For heavy combination vehicles, the agency estimates that there were about 168,000 crashes. These crashes resulted in about 13,600 injuries and 387 fatalities to the occupants of heavy combination vehicles and about 51,500 injuries and 2,452 fatalities to the occupants of the other vehicles involved. For truck tractors operating without a trailer, also known as ''bobtail'' truck tractors, the agency estimates that there were about 8,400 crashes, resulting in about 1,200 injuries and 39 fatalities to truck tractor occupants and about 2,600 injuries and 178 fatalities to occupants of other involved vehicles. For heavy single-unit trucks and school buses, the agency estimates that there were about 192,600 crashes, resulting in about 15,700 injuries and 165 fatalities to truck and school bus occupants and about 48,300 injuries and 891 fatalities to occupants of other involved vehicles. For transit and intercity buses, the agency estimates that there were about 49,500 crashes, resulting in about 19,500 injuries and 28 fatalities to bus occupants and about 9,100 injuries and 230 fatalities to occupants of other involved vehicles.

Based on analyses of both national and state accident data, NHTSA estimates that between 10 percent and 15 percent of the crashes involving heavy combination vehicles (including bobtail truck tractors) involved in a jackknife or other braking-induced instability or loss of control. For a more detailed discussion of the injury statistics, the reader should refer to the Final Economic Assessment (FEA) for this rulemaking.

This rulemaking focuses on crashes involving loss-of-control. Such incidents result from braking-induced wheel lockup with subsequent loss of the ability of the vehicle's tires to generate ''stabilizing forces.'' [9] This loss of tire stabilizing forces can result in either vehicle directional instability if it occurs at the vehicle's rear wheels or loss of steering control if it occurs at the vehicle's steering (front) wheels.

B. Braking Systems, Tires, Wheel Lockup, and Loss of Control Crashes

When a vehicle driver makes a brake application that is too ''hard'' for conditions, the driver is likely to lock some or all of the vehicle's wheels (i.e., the wheels will be ''sliding'' rather than ''rolling''). Locking up wheels is more likely to occur under conditions where the maximum forces that can be generated by the vehicle's tires are reduced, i.e., when the vehicle is lightly loaded or empty and/or when the road is slippery. When wheel lockup occurs, vehicle loss-of-control can result. Incorporation of an ABS decreases the likelihood of wheel lockup, and increases the driver's ability to maintain control during severe braking maneuvers, that would otherwise lead to wheel lockup and resultant loss of directional stability and control, if the vehicle is not equipped with an ABS.

III. US and Foreign Activities Related to Stability and Control During Braking Performance

A. Early US Regulatory History

NHTSA has been concerned about the safety of heavy vehicle braking systems since the agency's inception. On October 11, 1967, the predecessor of NHTSA, the FHWA's National Highway Safety Bureau, published a notice of its intention to promulgate brake standards for hydraulic and air-braked trucks and buses, and air-braked trailers. (32 FR 14279.) The initial notice of proposed rulemaking (NPRM) for air-braked systems proposed various requirements, including requiring vehicles equipped with such systems to stop within certain distances, from certain speeds, without leaving a 12-foot wide lane and without lockup of any wheel ''more than momentarily.'' (35 FR 10368, June 25, 1970.) A companion NPRM for hydraulic brake systems proposed essentially identical performance requirements for heavy vehicles equipped with those systems. (35 FR 17345, November 11, 1970.) These notices proposed that heavy vehicles would have to stop from 60-mph within 216 feet on a surface with a skid number of 75.[10] The ''no lockup'' provision was intended to minimize skidding, spinning, and jackknifing due to wheel lockup and loss of directional stability.

In the final rule establishing Standard No. 121, the agency decided to increase the 60-mph stopping distance from 216 feet to 245 feet. (36 FR 3817, February 27, 1971.) The final rule amending Standard No. 105 to extend its applicability to heavy vehicles, also increased the 60-mph stopping distance for those vehicles to 245 feet. (37 FR 17970, September 2, 1972.) The requirements for air-braked vehicles were to become effective on September 1, 1973, and those for hydraulic-braked vehicles, on September 1, 1974.

Although neither standard specifically required antilock, NHTSA anticipated that manufacturers would equip heavy vehicles with antilock brake systems to comply with these requirements. The agency explained that the less stringent stopping distance was being required to reflect more accurately the vehicle performance given the test track road surface's friction characteristics.

Since the required stopping distances were shorter than the stopping performance achieved by certain heavy vehicles, new, more aggressive foundation braking systems were necessary for those vehicles. In particular, vehicles with short wheelbases needed to have considerably more aggressive front axle brakes to meet the shorter stopping distance requirements. If not kept properly adjusted, these more aggressive front brakes might produce a brake ''pull'' to one side, which was disconcerting to drivers, particularly on vehicles without power steering. In addition, drivers were concerned about loss of steering control caused by wheel lockup on the

[9] See the Appendix which defines and discusses this term.

[10] A skid number describes the friction properties of pavement. A skid number of 75 is representative of a dry surface with a relatively high coefficient of friction. See the Appendix for a discussion of this term.

steering axle. At the time, most manufacturers equipped their vehicles with antilock devices because the standards required stops to be made without more than momentary lockup of the wheels. These devices served to prevent steering axle lockup problems as well, but there was concern that safety problems could result on short-wheelbase, high-center-of-gravity vehicles, in the event that the antilock system should malfunction.

NHTSA extended the effective dates for the stopping distance requirements in Standard No. 105 and Standard No. 121. (37 FR 3905, February 24, 1972; 38 FR 3047, February 1, 1973; 39 FR 17550, 17563, May 17, 1974.) Prior to the final effective date for Standard No. 105, the amendments pertaining to heavy vehicles were withdrawn, so the requirements for heavy hydraulic-braked trucks and buses never went into effect. (40 FR 18411, April 28, 1975.) Standard No. 121 became effective on January 1, 1975, for trailers, and on March 1, 1975, for trucks and buses. At that time, the 60-mph stopping distance requirement remained at 245 feet. However, after several revisions to the stopping distance requirements, NHTSA amended the standard by extending the 60-mph stopping distance requirement to 293 feet, as requested by Freightliner in a petition for reconsideration. (41 FR 8783, March 1, 1976.)

B. PACCAR Case

In January 1975, PACCAR (a truck manufacturer), the American Trucking Associations (ATA), and the Truck Equipment and Body Distributors Association (TEBDA) sued the agency, challenging the stopping distance requirements in Standard No. 121, which they believed required the use of antilock brake systems.

Specifically, the petitioners challenged the 245-foot stopping distance. The subsequent increase to 293 feet, a distance that did not necessitate such aggressive front brakes, occurred after the suit was filed. The petitioners argued that the agency failed to demonstrate a safety need for the standard and that the testing procedures were not objective, impracticable, and unreasonable. TEBDA objected to the standard's certification requirements.

In response to the suit, the stopping distance and ''no lockup'' requirements in Standard No. 121, along with certain other provisions, were invalidated by the United States Court of Appeals for the 9th Circuit in *PACCAR*. The court held that NHTSA was justified in promulgating a standard requiring improved air brake systems and stability mechanisms. However, after reviewing the record about reliability problems with antilock brake systems then in use, the court further held that the standard was ''neither reasonable nor practicable at the time it was put into effect.'' *Id.* at 640. Among the court's other findings were that the agency had a responsibility (1) to examine the results of its rulemakings by investigating more fully the safety of vehicles in use, (2) to assure that the new systems it requires are reliable when placed in use, and (3) to determine that its regulations do not produce a more dangerous highway environment than that which existed prior to government intervention. Based on these findings, the court stated that

> * * * those parts of the Standard requiring heavier axles and the antilock device should be suspended. The evidence indicates that this can be accomplished if we hold, as we do, that the stopping distance requirements from 60 mph are invalid * * * We hold only that more probative and convincing data evidencing the reliability and safety of vehicles that are equipped with antilock and in use must be available before the agency can enforce a standard requiring its installation.

Id. at 643.

The court also ruled on the objectivity and practicability of the testing procedures in Standard No. 121. First, the court stated that road surface skid numbers used for testing certified vehicles were ''ill-chosen'' where they assumed the use of a particular tire no longer in production. *Id.* at 644. Second, the skid number method of testing was not objective. *Id.* at 644. Third, the testing procedure was not practicable because fluctuations in skid numbers on a given road surface made it impracticable for manufacturers to conduct tests that assure that their vehicles will exactly meet the objective standard when tested by NHTSA. *Id.* at 644. Fourth, manufacturers are entitled to testing criteria that they can rely on with certainty. *Id.* at 644. Fifth, the standard failed to specify formal and reasonably specific testing criteria about the time intervals between tests, the duration of permissible wheel lockup during tests, and the amount of curving in testing track roadways. *Id.* at 645. Sixth, the agency's suggestions of alternative methods of satisfying the Safety Act's ''due care'' provision were inadequate since such alternatives were not set forth in the regulations. Id. at 645.

The court remanded the matter to NHTSA to clarify certain provisions in Standard No. 121. In response to *PACCAR*, the agency issued several notices amending the standard to be consistent with the decision. (43 FR 39390, September 5, 1978; 43 FR 48646, October 19, 1978; 43 FR 58820, December 18, 1978; 44 FR 46849, August 9, 1979.) In the September 1978 notice, the agency amended the standard to specify test procedures and conditions for frictional characteristics of the test track surface, duration of time intervals between road tests, duration of permissible wheel lockup during road tests, the amount of curving in the test track, and the means for establishing the frictional resistance of the road test surface. In the October 1978 notice, the agency set forth its interpretation of *PACCAR* to guide continuing compliance with the standard. Specifically, the notice explained that the court had invalidated the ''no lockup'' provisions in S5.3.1 and S5.3.2 as they apply to trucks and trailers, along with the related stopping distances established for 60-mph stopping tests for heavy vehicles. That notice also amended the requirements to provide for ''due care certification.'' In the December 1978 notice, NHTSA responded to petitions for reconsideration of certain aspects of the September 1978 notice, including vehicle exclusions and road test procedures. The agency withdrew the changes to specification of initial brake temperatures, skid number ranges, and duration of wheel lockup that were made in the September notice. In the August 1979 notice, the agency further clarified its interpretation of certain findings of *PACCAR*.

C. US and Foreign Experience With ABS Since PACCAR

As a result of the 1978 *PACCAR* decision, U.S. manufacturers chose to halt development and production of ABS for heavy vehicles. For instance, before the 1978 ruling, A-C Sparkplug, a domestic manufacturer of ABS, produced about 180,000 ABS units per year. By 1984, it was producing only about 500 units annually.

NHTSA continued to study the effectiveness of heavy truck antilock brake systems. Among other things, the agency studied the in-use experience with ABS in other countries, conducted performance testing of ABS equipped heavy vehicles, and conducted an extensive domestic fleet in-use test of ABS equipped heavy vehicles.

In response to section 9107 of the Truck and Bus Regulatory Reform Act of 1988, NHTSA submitted a report to Congress titled ''Improved Brake Systems for Commercial Vehicles'' (Report No. DOT HS 807 706). (April 1991) After discussing crash data concerning heavy vehicle brake systems, the report examined factors related to braking effectiveness, stability and

control during braking, and braking system compatibility of heavy combination vehicles. Among other things, the report indicated that the stopping distances and directional stability of heavy vehicles could be improved by equipping those vehicles with ABS.

With respect to the in-use experience with ABS in other countries, NHTSA conducted a study of the performance, reliability, and maintainability of in-service commercial air-braked vehicles equipped with ABS in Europe and Australia.[11] At the time of the study in 1987, there were approximately 1.5 million ABS-equipped trucks and tractors, and 0.9 million ABS-equipped trailers in use in Western Europe, and 92,000 trucks and tractors and 80,000 trailers in Australia. ABS market penetration, at that time, in Western Europe was estimated to be 4.5 percent for trucks and tractors and 5.6 percent for trailers, while in Australia the comparable figures were 1.3 percent for trucks and tractors, and less than 1 percent for trailers. Based on data derived from interviews with fleets which were using ABS and surveys conducted by ABS and vehicle manufacturers, the reliability of ABS when equipped on European vehicles was estimated to be 1 to 2 ABS component failures per 1000 vehicles per month. Based on those data, it was predicted that between 4 and 20 malfunctions would occur with the 200 ABS-equipped truck tractors involved in the NHTSA-sponsored two-year in-service fleet study, which was subsequently performed between 1989–91. In fact, nineteen ABS components failed, which is within the range predicted by the European study.

Among the study's other findings were that maintenance was done only when a malfunction indicator activated; malfunction indications did not cause drivers to disrupt their operations and stop en route; no special maintenance was performed on the ABS beyond routine periodic inspections; no problems with electronic and radio frequency interference (RFI) were reported; with proper maintenance, ABS life was expected to equal that of the vehicle; and carriers reported that drivers liked driving ABS-equipped vehicles. Although some problems were encountered with wiring and connector failures, ABS manufacturers believed that their systems were generally reliable and expected future improvements.

Since the completion of NHTSA's study, several European countries have issued regulations requiring heavy vehicles to be equipped with antilock brake systems. Specifically, the Economic *Commission for Europe* [12] (ECE) Regulation No. 13 includes technical requirements for antilock systems in Annex 13 of its regulation.[13] Annex 13 sets forth definitions of antilock brake systems and component parts, various ''types'' of antilock systems, and test procedures. ECE's Annex 13 specifies a design requirement and dynamic performance requirements. The European Economic Community (EEC Common Market) directive has identical requirements. As a result, since October 1, 1991, all heavy trucks (with GVWR greater than 16 metric tons), interurban buses (with GVWR greater than 12 metric tons), and heavy trailers (with GVWR greater than 10 metric tons) submitted for new type approvals in European countries adopting the standard have been required to be equipped with ABS. Accordingly, ABS have been installed on tens of thousands of European heavy vehicles that have traveled millions of miles over the last few years. All vehicles for which ABS is mandatory under Annex 13 are required to have a Category 1 system. Such systems are essentially the same as those required by today's final rule.

With respect to performance testing, NHTSA has issued two reports on the stopping distance capability of several different types of heavy air-braked vehicles at various loading conditions.[14] The agency also tested some vehicles equipped with ABS, thus allowing comparisons about stopping distances with and without these devices. At the beginning of each test series, these vehicles were equipped with new tires and with new original equipment brake system components to provide consistency in test results. At the beginning of each testing series, the tests were conducted on various vehicles (school buses, transit buses, single unit trucks, tractor trailers) at the loaded and empty conditions and with various equipment (with ABS activated and deactivated). All the tests were straight line stops from 60 mph on a dry concrete surface. The test results indicated that: (1) All stops made with ABS were stable, regardless of whether the vehicle was operating fully loaded or empty, and (2) stopping distance improvements with ABS (compared to no ABS) were greatest in the bobtail configuration (+47 percent in one case), were significant with an empty trailer (+29 percent in one case) and were smallest (+4 percent) in the fully loaded condition.[15]

NHTSA's fleet testing program of ABS-equipped truck tractors evaluated the reliability, maintainability, and durability of 200 truck tractors equipped with ABS. The fleet study found that current generation ABSs are reliable and can be successfully installed on commercial motor vehicles.[16] The agency added trailers to the fleet study program in 1990–1991 and found similar results. A copy of that study has been submitted to the public docket.[17] The findings of the fleet testing program are discussed later in this preamble.

IV. Advance Notice of Proposed Rulemaking (ANPRM)

On June 8, 1992, NHTSA responded to Congress' 1991 mandate in ISTEA by publishing an advance notice of proposed rulemaking (ANPRM) announcing the agency's interest in measures to improve the directional stability and control of heavy vehicles during braking. (57 FR 24212.) The advance notice stated the agency's tentative conclusion that ABS represents the best available and most reliable technology to reduce jackknifing and other loss-of-control crashes during braking. The notice posed questions about such matters as the occurrence of loss-of-control crashes; the availability and performance of systems to improve directional stability and control under all conditions of braking and vehicle

[11] ''European/Australian Experience with Antilock Braking Systems in Fleet Service,'' U.S. Department of Transportation, NHTSA, DOT HS 807 269, March 1988.

[12] The Economic Commission for Europe (ECE) is a United Nations organization comprised of European countries plus the United States and Canada, which establishes requirements applicable to the type approval of motor vehicles and other products for sale in those nations that choose to apply the requirements.

[13] Annex 13 is titled ''Requirements Applicable to Tests for Braking Systems Equipped with Anti-Lock Devices (Wheel-Lock Preventers).'' It is Annex 13 of ECE Regulation No. 13, which is titled ''Uniform Provisions Concerning the Approval of Vehicles with Regard to Braking.'' Regulation No. 13 is Addendum 12 of the ''United Nations Agreement Concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicle Equipment and Parts,'' done at Geneva on March 20, 1958, which is commonly known as the ''1958 Agreement.''

[14] ''NHTSA Heavy Duty Vehicle Brake Research Program Report No. 9, Stopping Distances of 1988 Heavy Vehicles,'' (DOT HS 807 531, February 1990)

[15] DOT HS 807 531, Table 4, page 19; Table 5, page 23; Table 6, page 25)

[16] ''An In-Service Evaluation of the Reliability, Maintainability, and Durability of Antilock Braking Systems (ABS) for Heavy Truck Tractors,'' (DOT HS 807 846, Final Report, March 1992.)

[17] ''An In-Service Evaluation of the Performance, Reliability, Maintainability, and Durability of Antilock Braking Systems (ABSs) for Semitrailers'' (DOT HS 808 059, Final Report, October 1993.)

load; potential regulatory approaches to improve the directional stability and control of heavy vehicles during braking, including anticipated performance requirements, test procedures, and equipment requirements; a schedule for implementing requirements; diagnostic equipment to ensure in-use functioning of the systems; and anticipated costs of such requirements.

V. Agency Proposal

On September 28, 1993, NHTSA proposed to amend Standard No. 105 and Standard No. 121, to add requirements that would improve the directional stability and control of heavy vehicles during braking. (58 FR 50738.) NHTSA decided to propose that each heavy vehicle must be equipped with an antilock braking system that satisfies the agency's proposed definition of ABS. In addition, as a verification of the performance of the ABS, the agency proposed that a heavy vehicle comply with a braking-in-a-curve test.

NHTSA stated that, in proposing these amendments, its overriding goal was to ensure the directional stability and control of heavy vehicles during braking. The agency stated that, to ensure adequate ABS performance by means of dynamic test requirements, it would need to establish a broad array of performance requirements that would test the directional stability and control of vehicles under a number of loading conditions, travel speeds, and deceleration rates, and on a wide variety of road surfaces, including roads that are dry, wet, icy, and ''split mu.'' In addition, to ensure that directional stability and control are not provided at the expense of stopping distance, each of these tests would need to require the vehicle to stop within a specified distance.

NHTSA explained, however, that an approach that relied exclusively on dynamic test requirements would raise serious practicability concerns, given the inherent variability of stopping distance performance on low coefficient of friction surfaces and the costs associated with requiring such an extensive array of dynamic performance test requirements. NHTSA, therefore, focused its efforts on expressly requiring that heavy vehicles be equipped with ABS, and on supplementing that requirement with feasible and practicable dynamic tests that check the directional stability and control, and stopping distance of vehicles under a limited set of circumstances that may be experienced in the real world.

The proposal that heavy vehicles be equipped with antilock systems would have required that the front axle and at least one rear axle of each heavy vehicle be equipped with an ABS that would automatically control rotational wheel slip during braking by (1) sensing the rate of angular rotation of the wheels, (2) transmitting signals regarding the rate of wheel angular rotation to one or more devices which interpret those signals and generate controlling output signals, and (3) transmitting those controlling signals to one or more devices which adjust brake actuating forces in response to those signals. The agency stated its belief that these characteristics, specified in the definition of ABS, would permit the installation of any antilock braking system, provided that it is a ''closed-loop'' system that ensures feedback between what is actually happening at the tire-road surface interface and what the device is doing to respond to excessive wheel slip. NHTSA tentatively concluded that these criteria were necessary to ensure the introduction of systems that control wheel slip and sustained wheel lockup under a wide variety of real world conditions and thus would significantly improve safety.

In addition, the NPRM contained a detailed discussion of the braking-in-a-curve test, including the test track's configuration, lane width, and test surface, the vehicle's test speed, the type and number of brake applications, loading conditions, control trailer requirements, and the initial brake temperature.

NHTSA also proposed requirements for the ABS malfunction lamps and the power source for trailer antilock systems. The agency also addressed such considerations as requirements for diagnostic systems, the types of vehicles to be covered by the rulemaking, the implementation schedule for the proposed requirements, the rulemaking's potential effects on intermediate and final stage manufacturers and trailer manufacturers, and its costs and benefits.

VI. Comments on the Proposal

NHTSA received over 60 comments in response to the NPRM. Commenters included heavy vehicle manufacturers, brake manufacturers, safety advocacy groups, heavy vehicle users, trade associations, State entities, and other individuals.

Most commenters agreed that the agency should issue requirements to improve the stability and control of heavy vehicles during braking, thereby reducing the number of loss-of-control crashes. Advocates for Highway and Auto Safety (Advocates), the Heavy Duty Brake Manufacturers Council (HDBMC), the Insurance Institute for Highway Safety (IIHS), and Rockwell WABCO generally supported the agency's proposal to require heavy vehicles to be equipped with an ABS. These commenters stated that ABS will improve vehicle safety by providing improved braking performance and vehicle stability and control during braking.

The American Automobile Manufacturers Association (AAMA)[18], the American Trucking Associations (ATA), and fleet operators expressed mixed support for the rulemaking. AAMA stated that it ''reluctantly accepts the design specific proposal,'' given its concerns about the proposed braking-in-a-curve test procedure. ATA stated that it supports the use of ABS, but is concerned that the proposed effective dates would require universal use of ABS too soon to assure safety and reliability. AAMA and ATA stated that they would fully support the rulemaking, if the agency revised various aspects of the proposals. AAMA was primarily concerned about the practicability of the braking-in-a-curve test. ATA was primarily concerned about the ABS equipment requirement and alleged problems with the reliability of separate tractor-to-trailer electrical cables/connecters. The agency notes that some of ATA's requested revisions would be major departures from the original proposal.

The National Private Truck Council (NPTC), the National Truck Equipment Association (NTEA), the National Association of Fleet Administrators (NAFA), and the National Association of Trailer Manufacturers (NATM) opposed requiring heavy vehicles to be equipped with ABSs. These commenters were primarily concerned about the costs that an ABS requirement would impose on fleets, final stage manufacturers of vehicles produced in multiple stages, and small trailer manufacturers. NTEA stated that it would be impracticable for final stage manufacturers to certify compliance with the braking-in-a-curve test.

Commenters also addressed specific issues raised in the NPRM, including the proposal to require vehicles to be equipped with ABS, the type of and definition for ABS, the braking-in-a-curve test procedure, the implementation schedule for the

[18] AAMA submitted joint comments on behalf of eight major domestic manufacturers of heavy vehicles: Chrysler, Ford, Freightliner, General Motors (GM), Mack Trucks, Navistar, PACCAR, and Volvo-GM).

requirements, the malfunction indicator requirements, the power requirement, and the rulemaking's cost. A more specific discussion of the comments, and the agency's responses, are set forth below.

VII. Agency's Supplemental Proposal

Based on its analysis of comments on the NPRM and other available information, NHTSA issued a supplemental notice of proposed rulemaking (SNPRM) proposing a modified implementation schedule for the requirements in the agency's September 1993 NPRM and a requirement for independent wheel control on at least one axle. (59 FR 17326, April 12, 1994.)

With respect to leadtime, the agency proposed concurrent effective dates for the heavy vehicle stability and control requirements and for the heavy vehicle stopping distance requirements. Specifically, the agency proposed the following implementation schedule for both sets of requirements:

Truck tractors—2 years after final rule (1996)
Trailers—3 years after final rule (1997)
Air-braked single unit Trucks and buses—3 years after final rule (1997)
Hydraulic-braked single unit trucks and buses—4 years after final rule (1998)

With respect to independent wheel control, NHTSA proposed to require heavy vehicles to be equipped with an ABS that controls the wheels on at least one front and one rear axle, and independently controls the wheels on at least one of these two axles. The agency tentatively concluded that this would provide a necessary level of stopping distance performance on low mu and split mu surfaces. The agency posed a number of questions about the need for independent wheel control.

VIII. Comments on the Supplemental Proposal

NHTSA received comments from AAMA, other vehicle manufacturers, brake manufacturers, safety advocacy groups, ATA, and others.[19] Aside from ATA, almost all the commenters favored the proposed implementation schedule. Several commenters, including AAMA, Ford, Bendix, and Midland-Grau were concerned that the proposed requirements addressing independent wheel control were unreasonably design restrictive.

Among the other issues raised by commenters were whether the proposal is a performance requirement, alleged reliability and maintenance problems with ABS, alleged safety problems caused by ABS, the regulation's benefits and costs, its applicability to hydraulic systems, and the possible need for a phased-in implementation schedule and a separate power circuit for operating the ABS.

IX. Agency Decision

A. Requirement for and Definition of ABS[20]

In developing the proposal for this rulemaking, NHTSA considered what requirements are necessary to ensure improved stability and control for heavy vehicles. Among other things, the agency considered whether adequate performance relating to stability and control could be ensured solely by means of dynamic vehicle performance test requirements.

The agency stated in the NPRM its belief that, in order for an approach relying solely on dynamic tests to be successful, it would be necessary to establish a broad array of dynamic performance requirements that would test the directional stability and control of vehicles under a variety of loading conditions, travel speeds, and deceleration rates, and on a variety of road surfaces, including ones that have coefficients of friction that are low, high, and split mu. In addition, in order to ensure that stopping distance performance is not compromised in the attempt to improve directional stability and control during braking, it would be necessary for these performance requirements to specify maximum stopping distances.

NHTSA explained, however, that the poor correlation between stopping distance performance and the peak friction coefficient[21] (PFC) of low coefficient of friction surfaces, combined with the costs associated with such an extensive array of dynamic performance requirements, would, at this time, raise serious practicability concerns about any approach that included such an array of dynamic test requirements.[22] NHTSA therefore focused its efforts on a single provision expressly requiring that heavy vehicles be equipped with antilock systems, and on identifying feasible and practicable dynamic tests that could supplement that provision by directly assessing the directional stability, control and stopping distance of vehicles under some of the wide variety of circumstances that may be experienced in the real world.

This section discusses the proposed provision expressly requiring that heavy vehicles be equipped with antilock systems. More specifically, NHTSA proposed to require that each heavy vehicle be equipped with an ABS that satisfies the following definition:

> ''*Antilock braking system*'' means a portion of a service brake system that automatically controls the degree of rotational wheel slip during braking by:
>
> (1) sensing the rate of angular rotation of the wheels;
>
> (2) transmitting signals regarding the rate of wheel angular rotation to one or more devices which interpret those signals and generate responsive controlling output signals; and
>
> (3) transmitting those controlling signals to one or more devices which adjust brake actuating forces in response to those signals.

In developing this definition, the agency specifically sought to avoid unnecessary design restrictions or impede the future development of ABS. NHTSA stated in the NPRM that it believed that the proposed requirement would permit any ABS, provided that it was a closed-loop system that ensures feedback between what is actually happening at the tire-road surface interface and what the device is doing to respond to changes in wheel slip.

For a number of reasons discussed in the NPRM (and below), NHTSA tentatively concluded that a device that satisfies these criteria is necessary in order to prevent wheel lockup under a wide variety of real world conditions, thereby significantly improving safety.

A number of commenters, including vehicle manufacturers and brake manufacturers, recognized the practicability problems currently associated with some dynamic performance requirements and accordingly supported the agency's proposal to require heavy vehicles to be equipped with ABSs. AAMA stated that despite its strong preference for what it termed ''performance requirements,'' it would accept an explicit ABS requirement, provided that the braking-in-a-curve test is not adopted and the effective date for the proposed stopping distance requirement is made concurrent with the other effective dates for this rulemaking.[23] That organization stated that, in general, manufacturers ''much prefer performance over design specifications because performance

[19] Comments on the SNPRM will be specifically labeled as such. Other comments will be assumed to be in response to the NPRM.

[20] The reader may wish to review the Appendix which provides a technical explanation of how antilock brakes work, including various methods of wheel control.

[21] See the Appendix for a discussion of this term.

[22] ''MVMA/NHTSA/SAE Round Robin Brake Test,'' Transportation Research Center of Ohio, Report No. 091194, August 26, 1991.

[23] AAMA's specific concerns about the braking-in-a-curve test are discussed in a later section of this document.

requirements allow new, improved and more cost-efficient technological means to achieve desired safety ends.'' Nevertheless, AAMA indicated that it was willing to accept an ABS equipment requirement because it believes there are significant practicability problems associated with various dynamic tests that the agency has considered, including the braking-in-a-curve test.

Similarly, Rockwell WABCO stated that it ''reluctantly accepts the proposal for an ABS equipment standard rather than a performance standard.'' That commenter stated that it normally opposes equipment standards since they have the potential of restricting the implementation of new technology. However, it stated that, in this case, ''the current difficulty in formulating valid, repeatable performance criteria prohibit a true performance standard at this time.'' Rockwell WABCO concluded that ''the proposed combination of an equipment specification and a performance test is both understandable and acceptable'' for now.

Advocates stated that it is convinced that:

> The agency's resolve to mandate a basic level of ABS as required equipment on all tractors, trucks, trailers, and buses with verification of desirable safety performance gained through a single major operating test, is the most appropriate way to ensure that the substantial safety benefits of heavy vehicle ABS are realized quickly.

Midland-Grau stated that the characteristics specified in the proposed definition will permit any antilock brake system, provided that it is a ''closed-loop'' system that ensures feedback between what is actually happening at the tire-road surface interface and what the device is doing to respond to changes in wheel slip.

Mr. John Kourik, a brake engineer, stated that the proposed definition:

1. Selects the proper technology to assure optimum stability and control, [and]
2. Supplements the intent of the original definition with a high degree of sophistication. This should eliminate the inferior mechanisms and devices that have been offered by 'toying' with the brevity of the original definition while making representations and distorted claims to suggest equivalency to ABS. Thus, the new definition should end the ''smoke and mirrors'' promotions of alleged substitutes for ABS.

According to Mr. Kourik, the proposed definition would preclude the use of unsophisticated equipment that does not sense changes in the wheel rotation rate, e.g., equipment such as mechanical devices, pneumatic dampeners, hydraulic dampeners, hydro/mechanical units, and electro/mechanical units.

Other commenters strongly opposed the proposed ABS requirement. ATA argued that NHTSA had proposed a ''design standard for ABS'' that is ''unlawful because it is contrary to the agency's statutory mandate to issue only performance standards.'' Citing the statutory definition of ''motor vehicle safety standard,'' that organization stated that, under the Safety Act, the requirements in Federal motor vehicle safety standards must prescribe performance, not design obligations.

ATA claimed that, despite the statutory mandate, much of the agency's proposal represents design requirements. Specifically, ATA stated that there were additional impermissible design aspects to the proposal, including the definition of ABS, and the requirements for trailer electrical power to be transmitted by a separate circuit specifically provided for that purpose and for warning systems to be electrical.

ATA also argued that the proposed definition for ABSs is unnecessarily design-restrictive, and would stifle innovation and require continual updating of the standard. ATA stated that the requirements would preclude anything but electronic systems, thereby prohibiting mechanical systems. That organization also argued that the requirements would impair efforts to develop new electronic technologies.

Several small companies which manufacture or sell brake products also argued that the proposed requirements are inappropriately design-restrictive. They argued that NHTSA should change the proposed definition of ABS so that devices other than computerized ABS can be used to meet the requirements. Trade International Corporation (TIC) argued that the proposed definition for ABS is fundamentally flawed because it does not specify what the system is supposed to accomplish but rather specifies how the system is supposed to work. It argued that a system could satisfy the definition but not accomplish the desired function.

After carefully considering the comments, NHTSA has decided to adopt the proposed requirement for and definition of ABS. The agency's response to the comments, including a more detailed discussion of some of the comments summarized above, is presented in the sections which follow.

1. Legal Authority

NHTSA disagrees with ATA's allegation that the agency does not have the statutory authority to issue a ''design standard.'' NHTSA's longstanding position [24] on this subject, which is presented in the form of a hypothetical discussion concerning the agency's authority to regulate the width of motor vehicles, is set forth below:

We believe that the National Traffic and Motor Vehicle Safety Act * * * would permit issuance of a safety standard that regulated or limited vehicle width, if it were found that such a regulation ''meets the need for motor vehicle safety'' (§ 103(a), 15 U.S.C. 1392(a)). As is true with every motor vehicle safety standard, however, it would be necessary to establish a reasonable, objective basis for the conclusion that this regulation can be justified by safety benefits obtainable, to avoid a judicial conclusion that the action is ''arbitrary, capricious, [or] an abuse of discretion.'' (5 U.S.C. 706). The issue, in other words, would not be one of basic authority, but of justification.

Although it may be argued that such a safety standard would be a regulation of ''design, and not performance'', for reasons set forth below we feel that this argument is insubstantial and reflects an inadequate understanding of the Act and the safety standards * * *.

Section 102(2) of the Act (15 U.S.C. 1391) defines a motor vehicle safety standard as ''a minimum standard for motor vehicle performance, or motor vehicle equipment performance, which is practicable, which meets the need for motor vehicle safety and which provides objective criteria.'' Section 103(f) of the Act also requires the standards to be ''reasonable, practicable and appropriate for the particular type of motor vehicle * * * for which it is prescribed.''

It has sometimes been suggested that the inclusion of the word ''performance'' in this definition suggests the existence of a dichotomy between vehicle design and performance. We do not, however, consider that there is a dividing line between standards that regulate performance and standards that affect design. Senator Magnuson recognized the absence of any dichotomy when he said that some safety standards would necessarily determine the configuration of some vehicle components. (112 C.R. 20600 (Aug. 31, 1966.)). In fact, all safety standards have a strong *effect* on vehicle or equipment design, in spite of their being phrased in ''performance'' terms. This is necessarily so since the design of vehicles and equipment determines the quality of their performance. (Some confusion over ''design'' may arise from the common use of the word to mean appearance or shape. In our work, however, the word means the sum of all of the characteristics that a product is intended to have, e.g., size, weight, interrelationship of components, materials, and markings.)

Each of our safety standards meets the need for motor vehicle safety by specifying requirements for the performance of a particular vehicle or item of equipment. Any design that will satisfy the requirements may be used for the system or item of equipment. The extent to which the choice of a design

[24] This discussion has been presented in past NHTSA letters, including a May 2, 1979 letter to the Insurance Institute for Highway Safety.

is restricted by a particular standard is purely a matter of degree, depending on the specificity of the requirement. We try, in carrying out the congressional mandate, to make the requirements as broad as the safety need allows. We will probably never have to reach the level of a true ''design specification'' as an engineer would use the term, i.e., a detailed description of every significant aspect of a product including the materials and manufacturing processes used. This is true because the standards deal only with the safety-related *characteristics* of the regulated items, e.g., the height, width, and strength of a head restraint and the light output of a headlamp.

In some cases, the *configuration* of a vehicle component or item of equipment is the characteristic that relates to safety. A good example of this is our standard on transmission shift levers (No. 102), which standardizes the position of Park, Reverse, etc., on all our passenger cars today. There, standardization of at least some external aspects of the component is needed for safety's sake. A second example is our standard on control identification (No. 101), where again an enforced similarity in the words and symbols used to identify vehicle controls is the heart of the safety requirement * * *.

Thus, if the width of a vehicle is, in fact, the characteristic that is found to require regulation for safety purposes (analogously to the spacing of headlamps in Standard 108 or the width of a head restraint in Standard 202), there should be no doubt of NHTSA's authority to regulate it.

NHTSA's requirements for specified safety equipment are at the heart of many of the Federal motor vehicle safety standards. Indeed, thousands of the lives saved and the injuries reduced or prevented by Federally-mandated safety features are the direct result of requirements for specific types of equipment. Most prominent among these requirements is the 25-year-old requirement in Standard No. 208, *Occupant Crash Protection*, for the installation of specific types of safety belts. This is the most heavily judicially and Congressionally scrutinized safety standard, and no question has ever been raised about the agency's authority to issue such a standard.

Equipment requirements are critical for helping to ensure that vehicles have many of the items necessary to guarantee safety. For example, it is critical for drivers to be able to see where they are going, and for their vehicle to be seen by other drivers. The safety standards therefore require items that are critical for driver visibility and vehicle conspicuity in the rain and at night. Standard No. 104 requires vehicles to have a windshield wiping system, Standard No. 108 requires vehicles to be equipped with specified lamps and reflective devices, Standard No. 111 requires that vehicles be equipped with rearview mirrors, and Standard No. 205 specifies the types of glazing which may be used in various locations.

Many other safety standards, including the existing brake standards, specify equipment requirements that meet equally important safety needs. Thus, the extremely narrow reading of the word ''performance'' advocated by ATA is inconsistent with the entire history of the Federal program for motor vehicle safety standards, and indeed with a majority of the existing standards.

The case law addressing this issue has clearly upheld NHTSA's authority to issue safety standards that directly affect design. In *Chrysler v. DOT*, 515 F.2d 1053 (6th Cir. 1975), for example, the court upheld a dimensional restriction on rectangular headlamps. That court reasoned that:

> Uniformity of headlamp size is an element of headlamp performance. Design freedom would inhibit safety, and certainly the congressional purpose of encouraging safety-related competition among manufacturers is meaningless in this context.
>
> We conclude that the dimension restriction at issue here essentially serves to ensure proper headlamp performance and lies within the regulatory authority granted by Congress to the NHTSA.

515 F.2d at 1058, 1059.

Moreover, in *Motor Vehicle Manufacturers Association v. State Farm*, 463 U.S. 29 (1983), the United States Supreme Court held that, before rescinding a general requirement for automatic restraints because one type of automatic restraint (e.g., the detachable automatic safety belt) might be ineffective, NHTSA must consider establishing an airbag-only requirement. The Court further stated that the agency could prohibit detachable automatic safety belts if the agency determined that they would not provide effective passenger protection. Therefore, the Supreme Court clearly recognized NHTSA's authority both to require specific safety equipment deemed to provide superior safety protection and to prohibit specific equipment that the agency deemed to provide inferior safety protection.

NHTSA therefore rejects ATA's argument concerning the agency's authority to require specified safety equipment. However, as indicated above, the agency does, in carrying out its statutory mandate, attempt to make its safety requirements as broad as the safety need allows. The relevant issue for this rulemaking is thus not whether the agency proposed an unlawful ''design standard,'' but instead whether the proposed requirement/definition for ABS is unnecessarily design-restrictive. For the reasons discussed below, NHTSA has concluded that each element of the proposed requirement/definition for ABS is necessary to meet the safety need for improved stability and control.

2. Elements of the Requirement/Definition for ABS

Far from proposing a detailed ''design requirement,'' NHTSA simply proposed to require vehicles to be equipped with an ABS consistent with the generally understood meaning of that term among brake engineers. The agency used this approach precisely to avoid imposing unnecessary design restrictions or impeding the future development of ABS. As discussed in the NPRM, the definition is sufficiently broad to permit the installation of any antilock braking system, provided that it is a ''closed-loop'' system that ensures feedback between what is actually happening at the tire-road surface interface and what the device is doing to respond to changes in wheel slip.

In developing the proposed definition, the agency relied on the Society of Automotive Engineers [25] (SAE) J656 (Apr88) ''Automotive Brake Definitions and Nomenclature'' and the Economic Commission for Europe's Regulation 13, Annex 13 (1988). SAE J656 refers to ABSs as ''wheel slip brake control systems'' that automatically control rotational wheel slip during braking. Among the terms related to ABS that are defined in SAE J656 are ''modulator'' and ''wheel slip sensor.'' These terms are used in SAE's test procedure for antilock systems, as specified in SAE J46 (JUN80) ''Wheel Slip Brake Control System Road Test Code.'' Similarly, Annex 13 of ECE Regulation 13 refers to ''anti-lock devices'' as systems which automatically control the degree of slip, in the direction of rotation of the wheel(s). The Annex 13 definition of ABS also states that such devices include ''a sensor or sensors, a controller or controllers and actuating valves.'' The agency's proposed definition of ABS incorporated the terms set forth in SAE J656 and ECE Regulation 13 to reflect the attributes of antilock systems as commonly understood by the automotive engineering industry.

The proposed equipment requirement specifies simply that vehicles must be equipped with an ABS which is defined

[25] The Society of Automotive Engineers is a voluntary professional organization that establishes recommended practices related to various aspects of motor vehicles.

as a system that automatically controls the degree of rotational wheel slip during braking, by (1) sensing the rate of wheel rotation, (2) transmitting signals regarding the rate of wheel rotation to a device which interprets those signals and generates responsive controlling signals, and (3) transmitting those controlling signals to a device which adjusts brake actuating forces in response to those signals. For reasons discussed below, each of these elements is necessary to meet the need for safety. In addition, the definition only states the *performance* required of the ABS components, not *how* the components must detect wheel rotation, etc.

As discussed earlier in this preamble, the safety problem being addressed by this rulemaking is that whenever the driver applies the brakes with too much force relative to extant tire and road conditions, sustained wheel lockup occurs. This usually results in loss of vehicle directional stability and/or steering control; i.e., a jackknife, spin-out or skid, and often a crash. Such sustained lockup most often occurs when the road is slippery or when the vehicle is lightly loaded or has no cargo. This is because drivers are likely to make a hard brake application in a panic situation, and the resulting braking forces easily cause lockup when the road is slippery or when the vehicle is lightly loaded or empty. Moreover, drivers are unable to sense lockup quickly enough to control it.[26]

In order to address this safety problem, NHTSA has determined that it is necessary to prevent the brake system from generating forces that result in uncontrolled lockup. This need is addressed in part by the first element of the requirement/definition: each ABS must automatically control the degree of rotational wheel slip during braking.[27] Automatic control is necessary since drivers cannot control lockup in an emergency situation. By the time a driver can sense that lockup has occurred, it is often too late to prevent the sustained lockup that results in loss of directional stability or control.

The second element of the requirement/definition (sensing rate of wheel rotation and transmitting signals about the rate to a device that generates responsive control signals) is necessary to ensure that lockup will be prevented or controlled for all road surfaces and under all load conditions, and also to ensure that stability is not provided at the expense of stopping distance. The prevention of sustained lockup, and resulting loss of directional stability and control, should not be accomplished simply by putting weak brakes on the vehicle or lowering braking forces under all conditions. Thus, in addressing this safety problem, the agency must consider the twin goals of preventing/controlling lockup *and* ensuring good stopping distance under all road surface and load conditions.

In a braking situation, the more the driver depresses the brake pedal, and thereby increases braking forces, the more quickly the vehicle will stop, so long as the braking force is not so high that it causes wheel lockup. Thus, if stopping distances are to be minimized during braking, it is necessary to permit the hydraulic or air pressure to rise to a point just below the point where lockup would occur.

Moreover, the amount of pressure that causes lockup will vary dramatically depending on the road surface and vehicle loading. In order to ensure that braking force rises to a point just below the point where lockup would occur, it is necessary for an ABS to sense *either* each of the factors on which lockup is dependent, i.e., road surface friction, vehicle loading, dynamic weight transfer during braking, condition of brake linings, etc., *or* the product of all of those factors, i.e., the rate of wheel rotation from which wheel slip can be determined. Since it may not be technologically feasible for an ABS to sense all of the factors which may lead to lockup, the definition specifies that an ABS must sense the product of those factors, i.e., the rate of wheel rotation.

The rest of the second element of the definition is necessary to ensure that an ABS uses the relevant information, i.e., rate of wheel rotation, to control wheel slip and prevent lockup. The relevant information must be transmitted to a device which interprets the information and generates responsive controlling signals. Those controlling signals must then be transmitted to a device which adjusts brake actuating forces in response to those signals.

NHTSA has determined, based on all available information, that a device that lacks any one of the elements specified in the definition could not meet the need for safety addressed by this rulemaking, since, for the reasons discussed above, its operation would not be dependent on factors that are relevant to the desired safety performance.

The agency notes that while several commenters asserted that the proposed definition is unnecessarily design restrictive, none attempted to explain how a device not meeting one or more of the elements could ensure stability and control for heavy vehicles for a wide range of test surfaces and loading conditions.

Most of the commenters arguing that the proposed definition is unnecessarily design restrictive were small companies which manufacture or sell brake products. In essence, they wished the agency to change the proposed definition of ABS so that their devices can be used to meet the requirements. These companies are, of course, free to develop and sell products that meet the definition. Also, to the extent that these companies produce products that do not meet the definition, they are free to sell them as supplemental equipment, so long as the products do not create compliance problems or contain safety defects. However, for the reasons discussed above, and expanded on below in the context of these comments, products which do not meet the definition would not prevent sustained wheel lockup.

Strait-Stop, a company which manufactures what it calls a ''noncomputerized ABS,'' argued that the proposed ABS definition is discriminatory and excessively design-restrictive because it necessitates the use of electronic computerized systems with wheel speed sensors. It argued that the agency's tests ''(do) not prove, conclusively, that the computerized ABS is the only alternative to accomplish stability and control.'' Strait-Stop also stated that NHTSA's fleet study indicated that computerized ABS activated very rarely, only 1.4 times per 10,000 brake applications or 1.1 times per 10,000 miles driven, and that it is a tool with which drivers will not gain familiarity. In contrast, Strait-Stop stated that its device activates approximately 98 percent of the time that the driver applies the brakes, thereby enabling drivers to become familiar with the system. While Strait-Stop did not describe how its ''non-computerized ABS'' works or precisely what it does, that company stated that its device uses ''modulation but not reduction of braking pressure.'' Moreover, literature about its system indicates that the air flow from the foot (treadle) valve to the relay valve is interrupted through the Strait-Stop system and pulsates the brake chambers. The ''system intermittently repeats the on and off cycle at a pre-set rate.''

Jenflo Brake-Aid (Jenflo) also argued that the proposed ABS definition is discriminatory, and that the definition should be revised to permit braking devices other than the ones tested by the

[26] ''Improved Brake Systems for Commercial Motor Vehicles,'' DOT 807 706 Section 3.2.2; pages 3–5.

[27] As discussed in the Appendix, wheel slip refers to the proportional amount of wheel/tire skidding relative to vehicle forward motion, and lockup is simply the condition of 100 percent wheel slip.

agency. Jenflo manufactures a device for air brake systems which causes a ''pulsing (or air pressure to) the brake actuators hundreds of times per minute, (that will) cause the tires to approach lock-up, then the brakes are off for a 'small' fraction of a second and are just as rapidly reapplied.'' As a result, the air pressure is continually released and reapplied on all the controlled wheels during all but ''normal'' braking.

Trade International Corporation (TIC) stated that the proposed ABS definition is unnecessarily narrow and could preclude the use of available, beneficial products and technologies, and also impede the development of other useful products and technologies. TIC argued that a system which continuously modulates the braking force applied to every wheel whenever braking force is applied would not satisfy the definition because it lacks the specified sensing and transmitting functions, regardless of its ability to prevent wheel lockup and/or enhance braking effectiveness.

The devices referred to by Strait-Stop, Jenflo Brake-Aid, and TIC all ''pulse'' the air pressure for essentially all but normal brake applications. These commenters did not explain in detail how these products work. However, based on the available information, they provide the same ''pulsing'' of air pressure at a fixed pulsation rate for all brake applications above some braking or turning threshold. Regardless of how they work, however, the devices cannot ensure the twin goals of preventing/controlling lockup *and* ensuring good stopping distance under all road surface and load conditions, if they do not meet the proposed definition. This is because, for the reasons explained above, their operation would not be dependent on the factors that are relevant to the desired safety performance. Only by continuously sensing and responding to what is actually happening at the tire/road surface interface can an ABS system optimize the braking pressure so as to both prevent lockup and minimize stopping distances. As discussed in the ABS Wheel Slip Control Strategies section of the Appendix, one effect of varying road surface and vehicle load conditions on the operation of ABSs is the varying controlling frequencies that are needed to adapt to these varying conditions. The fact that these other devices incorporate a fixed pulsation rate demonstrates their lack of adaptability to varying road surface and vehicle load conditions. As shown in Figures 17 and 18 in the Appendix, the ABS controlling frequency needs to be relatively slow, between 1 and 2 cycles per second, in order to prevent sustained excessive wheel slip on very low friction surfaces and needs to be much faster, approaching 10 cycles per second, in order to achieve very short stopping distances on high friction surfaces. The increase in stopping distance on high friction road surfaces that would result from a system which exhibited a slower than optimum ABS controlling frequency may not be great. However, the impact of a much faster than optimum ABS controlling frequency on a very low friction surface would be sustained and excessive wheel lockup. As shown in Figure 17 in the Appendix, wheel lockup can occur very rapidly. Figure 17 also shows that from the time that the ABS solenoid is activated to reduce brake pressure it takes about 0.25 seconds before the wheel even begins to spin up, about 0.35 seconds for the wheel to reach one-half of the vehicle's speed and more than 0.6 seconds for the wheel to reach the vehicle's speed. If the devices referred to by Strait-Stop and Jenflo Brake-Aid pulse the brakes several times a second, the ''off'' portion of pulsation cycle would not be sufficiently long to allow the locked wheel to spin up prior to the next ''on'' portion of the cycle which would result in sustained wheel lockup.

The basic problem with devices that do not incorporate feedback on what is happening at the tire/road surface interface (as required by the definition of ABS mandated by this amendment) such as those described by Strait-Stop, Jenflo and TIC, is that they are ''blind'' to the road and surface conditions on which the vehicle is operating and thus make the same response each time, regardless of whether that response is appropriate for the existing circumstances. In other words, the systems cannot appropriately adjust their cycle rate or the degree of pressure variation to compensate for the effects that load condition and road surface friction can have on the lockup and spinup times of a vehicle's wheels. This lack of ''adaptability'' to changes in load and road surface conditions results either in sustained wheel lockup (and resultant loss of stability and control) or in stopping distances that are much longer than the vehicle would otherwise be able to achieve under those conditions for which the system was not optimized. As a result, even if these systems enhanced vehicle stability on one type of surface, they would provide inferior braking on a different surface. For instance, the relatively high brake pressure required for short stopping distance on a high coefficient of friction surface would lock the wheels on a slippery surface because wheel lockup occurs when the braking force at the tire/road surface interface, needed to resist the torque generated by the brake, is greater than that which can be generated from the available surface friction. Because wet surfaces have lower friction levels, vehicles on these roads will lock up at lower levels of brake pressure. Conversely, if the pulsating mechanical system were designed so that brake pressure was reduced in a manner that ensured that lockup would not occur during hard braking on a slippery surface, stopping distances would be very long when braking on high coefficient of friction surfaces.

NHTSA also notes that in order to optimize stopping distance and maintain vehicle stability, an antilock system must be capable of reducing, holding, and reapplying braking pressure to each controlled wheel. The wheel speed sensor monitors the rotational speed of the wheel. When a monitored wheel approaches a lockup condition, there is a sharp rise in peripheral wheel deceleration and in wheel slip. If this rise exceeds the designed threshold levels, the ECU sends signals to the modulator device to hold or reduce the build-up of wheel brake pressure until the danger of wheel lockup has passed. The brake pressure must then be increased again to ensure that the wheel is not underbraked for the road surface conditions. During automatic brake control, it is important for the wheel speed to be constantly monitored so that the maximum braking force for the conditions could be achieved by a succession of pressure-reduction, pressure-holding, and pressure-reapplication phases. The agency notes that the systems described by Strait-Stop, Jenflo and TIC reduce and reapply pressure, without reference to road conditions, brake forces, or impending wheel lockup.

With respect to Strait-Stop's argument that drivers will not gain familiarity with the kinds of ABS systems tested by NHTSA because the systems activate only rarely, the agency notes that no special familiarity is necessary to operate the system properly. ABS is a safety device which operates automatically in emergency situations.

Strait-Stop also alleged that the system defined and tested by NHTSA does not prevent lockup. While that company did not explain this comment, the agency assumes that Strait-Stop is distinguishing between momentary lockup and sustained lockup. All of the systems tested by NHTSA prevent sustained lockup.

Strait-Stop argued that the inference that the screened-out systems would not

meet the braking-in-a-curve test requirement is unsupported since the agency has not tested and, in some cases has refused to provide testing for them. As discussed above, it is possible that a system not meeting the proposed definition could be optimized to provide enhanced stability for a particular test on a particular test surface. However, such a system would provide inferior braking performance on other surfaces and/or under different test conditions.

There is no requirement or reason for the agency to test every invention identified by commenters in a rulemaking proceeding. The agency can use its technical and engineering analysis to determine what performance attributes are necessary to meet the need for safety, and it can also often make determinations about whether particular devices would provide safety benefits by the same means.

NHTSA has also analyzed another type of device, from Emergency Brake Technologies, described by Dr. Barry Wells. This is an emergency braking device that is manually activated by the driver through a dash-mounted switch that activates arms that drop polyurethane wedges and rubber flaps under the vehicle's wheels. After the device is activated, the vehicle must be stopped and reversed so that the wedges can be removed from beneath the wheels. Emergency Brake Technologies claims that this device ''could stop a fully loaded vehicle in the same distance as an automobile and completely eliminate jackknifing.'' While NHTSA does not have any opinion concerning whether this device might provide benefits in some emergency stopping situations, the device would not meet the need for safety being addressed by this rulemaking, i.e., ensuring stability and control during braking. In fact, the dropping of polyurethane wedges and rubber flaps under the wheels would create essentially the same condition as fully-locked wheels, and therefore could result in a loss of control. Once the driver activated this system, the driver would be committed to a quick, sliding stop. The driver would have no capability to release the device once applied, and could also have difficulty steering around a problem. While such a device could provide short stopping distances under dry-road conditions, it would do so by sacrificing vehicle stability and control.

ATA and Strait-Stop commented that the proposed definition would preclude anything but electronic systems, thereby prohibiting mechanical systems. NHTSA notes that this is incorrect, since the definition does not require electronics for the sensing of the wheel rotation, or transmission of wheel rotation or controlling signals. Such functions could be performed using pneumatic, hydraulic, optic, or other mechanical means. The agency notes that it is likely that electronic systems will be used, given currently available technologies. All ABSs currently marketed in the United States are electronic in nature.

In the case of an ABS that does not require electrical power for operation, the only mandatory electrical requirement in this rulemaking (addressed later in this document) is for malfunction indicator lamps used to signal a problem in the ABS.

ATA also argued that the requirements would impair efforts to develop new electronic technologies. ATA stated that the restrictions would limit engineers' abilities to develop electronic braking (brake-by-wire) systems (EBS) by forcing the logic for such systems to be based on existing ABS designs. According to ATA, EBS is designed to handle all braking functions: compatibility, load sensing/brake proportioning, balance, timing, ABS, traction control, and failure control. ATA stated that successful development of these systems may require that designers not be tied to a rotational slip view of wheel lockup.

NHTSA disagrees that the proposed ABS requirements will impair efforts to develop EBS. The agency notes that Robert Bosch GmbH currently markets the Bosch-ELB Electronically Controlled Commercial Vehicle Brake, in Europe. This system includes ABS, traction control, and electronic service braking (with pneumatic backup) functions, and uses the same wheel speed sensor arrangement as does Bosch's ABS sold without EBS. This indicates that EBS is fully compatible with current ABS technology, including wheel speed sensors. Furthermore, a combination-unit vehicle with good brake balance, compatibility, and timing may still be capable of being over-braked by the driver, especially when operated lightly-loaded or on slippery road surfaces, and such a vehicle would still require ABS to prevent wheel lockup when operated under these conditions. The development of the Bosch electronic braking system proves that the rotational slip view of wheel lockup does not hinder the development of successful EBS.

ATA also stated that the requirements could ''hold back'' disc brake technology since disc brakes are ''virtually incompatible'' when used together with drum brakes on a combination vehicle. ATA appears to believe that because EBS can make the ''decisions'' to compensate for those major differences, it is needed for disc brake technology to come into general use. The agency notes that, according to product literature, the Bosch-ELB system measures wheel speeds and brake actuator pressures at each wheel position, and microcomputers in the electronic control unit store and process these data and transmit the correcting commands accordingly. This system could, therefore, compensate for incompatibilities in brake force balance on a vehicle, and would permit safe introduction of disc brakes on vehicles. This system incorporates ABS technology that complies with the agency's proposed ABS requirements, as well as ECE Regulation 13. Therefore, NHTSA disagrees with ATA's argument that ABS requirements will hold back disc brake technology.

In a somewhat different vein, TIC argued that a system could satisfy the proposed definition but not accomplish the desired function of preventing lockup. As part of this argument, TIC stated that the proposed definition for ABS is fundamentally flawed because it does not specify what the system is supposed to accomplish but rather specifies how the system is supposed to work. TIC's comment in essence raises the issue of whether the definition is sufficient, by itself or with other requirements, to meet the need for safety.

As indicated at the beginning of this section, the agency developed a broad definition precisely to avoid imposing unnecessary design restrictions or impeding the future development of ABS. The ABS definition is based on the premise that wheel lockup is the source of a vehicle's loss of directional stability and steering control during braking, and that any device designed to improve such stability during braking must control the source of that instability. Hence, the definition establishes a linkage between the input, signals that sense wheel lockup, and the output, modulated brake pressure to prevent wheel lockup. This is essentially the extent of the design constraints established by the agency, and it gives the industry considerable latitude to design and develop individual components, ranging from sensor design and placement, to the ECU control algorithm and to brake pressure modulation frequency.

NHTSA rejects TIC's argument that the definition does not specify what the system is supposed to accomplish but rather how the system is supposed to work. Modulating brake pressure in

response to information about rate of angular rotation is part of what is supposed to be accomplished. As discussed above, the rate of angular rotation reflects what is happening at the tire/surface interface.

NHTSA further concludes that the requirement/definition for ABS is sufficient at this time to meet the need for safety. In arguing that a system can satisfy the definition but not accomplish the desired function, TIC provided the following ''extreme example'':

> Consider the following system: (1) a set of angular rate of rotation sensors, one on every wheel; which (2) transmit signals whose level is proportional to the rate of angular wheel rotation to a device which compares the signals and generates control signals; and (3) transmits those control signals to devices which *increase* the braking force applied to any wheel which has an angular rotation rate higher than the wheel which has the lowest angular rotation rate. Such a system satisfies every element of the proposed definition, however, the result of implementing such a system would be that if any wheel locked up during braking *all wheels would lock up*!

While TIC itself acknowledged that its example was ''extreme,'' NHTSA notes that its basic premise also is silly, since it assumes that a manufacturer would deliberately build a brake system that could not work. In considering the impacts of its standards, NHTSA must assess how manufacturers are likely to respond, not unrealistic hypothetical situations. The basic premise underlying this rulemaking is that manufacturers will respond to the definition/requirement for ABS by providing systems that will prevent wheel lockup. This view is confirmed by the comments of the vehicle and brake manufacturers. There is no evidence that manufacturers would respond by deliberately building systems that do not prevent lockup but instead cause lockup.

Moreover, the definition for ABS does not stand in a theoretical vacuum. Manufacturers must design their brake systems to meet other safety requirements (including stopping distance requirements and, for some vehicles, the braking-in-a-curve test). It might not be possible to meet those requirements with systems that did not prevent lockup but instead caused lockup. Manufacturers are also subject to Federal requirements concerning safety-related defects. And, of course, manufacturers must ensure customer satisfaction.

The agency also notes that there is absolutely no incentive for manufacturers to provide ABS systems that do not function as they intended. TIC's comment essentially raises the possibility that a manufacturer might spend all the money necessary to meet the definition of ABS and then include a faulty ECU control algorithm. However, there is no basis to believe that this would happen. The agency only addresses unreasonable safety risks in developing safety standards and need not address unrealistic hypothetical possibilities.

3. Dynamic Versus Equipment Requirements

As discussed in the NPRM and above, NHTSA considered whether adequate performance relating to directional stability and control could be ensured solely by means of dynamic test requirements, but concluded that, at this time, there would be practicability problems associated with the broad array of dynamic test requirements that would be associated with such an approach. The agency therefore decided to propose a single provision expressly requiring that heavy vehicles be equipped with antilock systems, and on identifying feasible and practicable dynamic tests that could supplement that provision by directly assessing the directional stability, control and stopping distance of vehicles under some of the wide variety of circumstances that may be experienced in the real world.

ATA commented that the desired result from mandating the installation of ABS is ensuring that a vehicle can be controlled during a stop, and asserted that the proposed braking-in-a-curve performance requirement, with certain changes, would accomplish this conceptually. However, ATA did not substantiate its assertion about the efficacy of such a requirement, standing by itself. ATA did not address the practicability problems of adopting a set of dynamic performance requirements, or even the practicability problems associated with applying the braking-in-a-curve requirement to all affected vehicles. ATA did, however, suggest that the agency initiate additional research and development for what it called ''true performance tests.''

While NHTSA plans to continue research on dynamic performance tests for trucks, buses and trailers, it has concluded that the desired safety benefits of ABSs could be achieved now by means of a specific equipment requirement for ABS and (as discussed below) a dynamic performance test requirement applicable to truck tractors only. NHTSA is charged by the Safety Act with promulgating safety standards that meet the need for safety. Moreover, Congress was sufficiently concerned about the directional stability and control problems associated with heavy vehicles that it specifically required NHTSA to conduct a rulemaking that examines and could result in requiring the installation of ABSs in these vehicles. The agency has concluded that large safety benefits can be obtained by requiring ABSs on heavy vehicles, and has developed requirements that will ensure installation of this safety equipment.

NHTSA disagrees with the suggestion that it delay implementation of this life-saving rule while it conducts further research in search of the type of rule ATA desires. The overall history of agency rulemaking is one of gradual progression, when and where practicable and beneficial to safety, toward increasingly sophisticated and increasingly more dynamic performance standards. However, relying exclusively on dynamic performance requirements has never been a statutorily mandated requirement. Were it so, there would be many fewer Federal motor vehicle safety standards today—and many thousands more deaths and injuries, occurring annually.

B. Independent Wheel Control

In the NPRM, NHTSA proposed to require that the antilock brake system monitor and control the wheels of the front axle (i.e., steering axle) and the wheels of at least one rear axle. NHTSA believed that this would ensure that the wheels on the steering axle and the wheels on the selected rear axle were directly controlled by the ABS. By ''directly controlled,'' the agency meant that the signal provided at the wheel or on the axle of the wheel would directly modulate the braking forces of that wheel or axle. The agency tentatively concluded that it is necessary to specify that the ABS directly control the steering axle because some ABSs control only a vehicle's drive-axle, which could result in the loss of steering control if the front wheels locked during braking.

Several commenters addressed the need for front wheel control. ATA strongly opposed mandating ABS for the steering axle of single-unit trucks and suggested that the agency reconsider the requirement for tractors. In contrast, Rockwell, WABCO, Freightliner, AAMA, Advocates, and IIHS favored requiring that an ABS be installed on front axles. AAMA favored equipping each vehicle with an ABS that has at least one independent channel of control for the wheels on a front axle and at least one independent channel of control for the wheels on a rear axle. However, AAMA objected to mandating more than two independent channels of control.

NHTSA did not specifically address the concept of independent control in the NPRM, but addressed it in the SNPRM by proposing that the wheels on at least one axle be independently controlled. The agency in today's final rule defines an ''independently controlled wheel'' to mean a directly controlled wheel for which the modulator device does not modulate the brake forces at any other wheel on the same axle. This means that a side-by-side control strategy on a tandem axle could have the wheels on the sensed axle of the tandem being independently controlled by a modulator, and the wheels of the other axle of the tandem being indirectly controlled by the modulator for the wheel on the sensed axle on the same side of the vehicle.

Rockwell, Freightliner, Advocates, and IIHS commented that the regulatory language in the NPRM requiring each axle to be directly controlled by an ABS would allow select low [28] antilock systems on any axle. These commenters believed that an antilock system must provide independent control at each wheel of a heavy vehicle to ensure good, overall ABS performance in the areas of stability and stopping distance. Accordingly, they recommended that the equipment requirement include language that would require ''independent control of each wheel'' of the axles that are required to be ABS-controlled. They believed that the inclusion of such a requirement would prevent significant degradation in stopping performance, particularly on a split mu surface. Bosch recommended a minimum requirement of a four-sensor, three- modulator-valve (which is referred to as a 4S/3M system) ABS. Freightliner favored requiring at least four independent channels of control, i.e., two for each axle, to allow independent control of each wheel on the front and a rear axle. Similarly, IIHS favored requiring the brakes for each wheel on the front axle and the brakes for each wheel on one rear axle to be independently controlled. Advocates recommended that the ABS be functional on all axles, not just one axle in each multiple axle set on a heavy vehicle.

Based on its analysis of these comments and other available information, NHTSA issued an SNPRM proposing modifications to the NPRM to require heavy vehicles to be equipped with systems that independently control each wheel on at least one axle of a truck, a truck tractor, or a bus (i.e., 4S/3M systems). As explained in the SNPRM, the agency tentatively concluded that a minimum requirement that ABS provide independent wheel control on at least one axle would provide an acceptable level of stopping distance performance on low mu and split mu surfaces. The agency believed that a vehicle with independent ABS wheel control would stop in a shorter distance than either a vehicle equipped with an axle-by-axle ''select low'' control ABS, or a non-ABS equipped vehicle operated by a driver making his or her best efforts to minimize stopping distance through manually modulating the brake pedal. The agency also proposed to prohibit tandem control [29] by an ABS, by requiring that no more than two wheels be controlled by one modulator valve. NHTSA requested comments about its proposal for independent control of each wheel on at least one axle and about prohibiting tandem control by an antilock system.

In response to the SNPRM, NHTSA received comments from Ford, AAMA, Strait-Stop, GM, Navistar, White GMC, Bosch, PACCAR, Eaton, Midland-Grau, Truck Trailer Manufacturers Association (TTMA), Advocates, and ATA about the proposal to require independent control on at least one axle. Aside from Freightliner, WABCO, Bosch, Advocates, and IIHS, most other commenters opposed the proposal claiming that requiring independent control would be unreasonably design-restrictive. Bosch stated that the proposal is appropriate since at least one of the axles that contributes most to vehicle deceleration in the loaded condition should have the ability to have its wheels individually controlled. Ford, AAMA, GM, Navistar, PACCAR, Eaton, and Midland-Grau stated that the agency should specify direct control as a minimum requirement but not require independent control. AAMA stated that the standard should permit any control system that provides stability without substantial degradation in stopping distance. Ford claimed that any requirement that ABS must employ more than two channels of control would not result in any safety advantage over its two-channel system, but would result in substantial and unnecessary incremental costs to Ford and might jeopardize its ability to meet early implementation dates. Midland-Grau strongly opposed the SNPRM's approach, claiming that it presented a major change in scope from performance requirements and minimal design requirements. Specifically, it complained that the SNPRM changed the rulemaking's focus from directional stability and control to stopping distance on split mu surfaces.

Consistent with their comments on control philosophies, AAMA, GM, White GMC, PACCAR, and Midland-Grau also opposed the proposed definition of ''independently controlled wheels.'' [30] AAMA and PACCAR claimed that the proposed definition does not accommodate widely used ABS algorithms and control technologies. It requested that the word ''only'' be omitted since its inclusion in the definition would inappropriately preclude antilock systems that ''rely on wheel speed information from both wheels on an axle to modulate brake pressure at each of the wheels.''

Ford, AAMA, GM, Navistar, White GMC, PACCAR, Eaton, and Midland-Grau opposed prohibiting tandem control. TTMA requested that trailers equipped with more than three axles be excluded from the requirements, claiming that it would be very expensive to equip these vehicles, which account for only four percent of trailer production, with ABS.

ATA and Strait-Stop opposed specifying the type of wheel control, claiming that doing so creates an impermissible design requirement. Strait-Stop stated that the proposed approach prohibits creativity in the development of other technology that may accomplish the performance standards more effectively with greater economic efficiency.

Several commenters submitted test data about various ABS configurations. WABCO and Freightliner submitted simulated test data showing that 4S/2M systems on truck tractors provide very poor stopping distance performance on split mu surfaces, compared with 4S/4M systems. These commenters reported that the 4S/2M systems they tested took between 316 percent and 353 percent of the norm to stop on a split mu surface, with driver best effort being defined as the norm, or 100 percent. Ford and Bendix submitted simulated data showing that 4S/2M systems incorporating the modified select high regulation (MSHR [31]) wheel slip control strategy on truck tractors perform acceptably. Bendix also submitted vehicle test data showing that the stopping distance performance with

[28] See the Appendix for a discussion of this term.

[29] As explained in the appendix, tandem control refers to having two adjacent axles being controlled by the same modulator valve. Specifically, while each axle has its own wheel speed sensor, the brakes on two axles are controlled by one modulator valve.

[30] The agency proposed to define ''Independently Controlled Wheel'' as a ''wheel at which the degree of rotational wheel slip is sensed and corresponding signals are transmitted to one controlling device that adjusts the brake actuating forces only at that wheel in response to those signals.''

[31] See the Appendix for a discussion of this term.

tandem control ABS incorporating the MSHR wheel slip control strategy (2S/1M) on trailers is comparable to the performance of a 2S/2M system.

As explained above, in establishing the requirements applicable to the stability and control of heavy vehicles, NHTSA has decided that, at a minimum, wheels on the steering axle and at least one rear axle of a powered vehicle must be controlled by a closed-loop antilock system. Similarly, the wheels on at least one axle of a semitrailer and dolly, and the wheels of at least one front axle and one rear axle of a full trailer must be controlled by a closed-loop antilock system. The agency has decided that requiring a closed-loop antilock system is necessary to ensure the directional stability and control of heavy vehicles during braking.

NHTSA emphasizes that requiring a closed-loop antilock system is a *minimum* requirement that the agency believes will ensure the safety of heavy vehicles. The agency has also decided to establish supplementary requirements beyond these minimum requirements that address the type of wheel control for various types of vehicles. In establishing these supplementary requirements, the agency has sought an approach that is responsive to the many and oftentimes disparate views of the commenters and that ensures safety performance objectives, while considering practicability, costs and, to the extent possible, stated industry practice.

The supplementary equipment requirements, which specify the type of wheel control, are based on the philosophy that, for the reasons set forth below, an incrementally higher level of stability performance during braking is warranted for truck tractors compared to that which is appropriate and needed for trailers, single-unit trucks, and buses. First, truck tractors, when used in a combination vehicle, are articulated and therefore are more likely to lose control than single-unit vehicles. Second, truck tractors typically have shorter wheelbases than single-unit trucks, trailers and buses and therefore are more susceptible to locked wheel-induced, unrecoverable loss of control than are any of these other vehicle types. This loss of control typically manifests itself as a jackknife when tractors are coupled to semitrailers. Third, truck tractors typically travel approximately five times more annual miles than single-unit trucks, three times more miles than trailers (since there are proportionally three times as many trailers in use than there are tractors which tow them), and approximately seven times as many miles as buses. This substantially larger use proportionally increases a truck tractor's exposure to risk. Fourth, truck tractors typically operate on roads (i.e., interstate highways and rural State and U.S. routes) that have comparatively higher posted speed limits and vehicle operating speeds than the roads on which single-unit trucks and many buses generally operate. A higher operating speed exacerbates the consequences of braking-induced wheel lockup and loss-of-control. This is a significant contributing factor to the high proportion of heavy vehicle braking instability-related crashes, fatalities and injuries that involve combination-unit trucks.

Based on the above considerations, NHTSA has decided that the requirements for truck tractors must be more stringent than those for the other vehicle types. Specifically, on at least one of the truck tractors's axles, each wheel must be independently controlled by an ABS modulator. With respect to a given wheel, ''independently controlled'' means a wheel at which the degree of rotational wheel slip is sensed and corresponding signals are transmitted to a modulator that adjusts the brake actuating forces at that wheel on the axle or at other wheels on other axles. The agency has decided to revise the definition in response to AAMA's comment on the definition of independently controlled, since its inclusion might inadvertently prohibit acceptable systems. Requiring independent control ensures that a wheel provides optimal braking forces on all surfaces, enabling the vehicle to achieve near optimal braking on all surfaces, especially split mu ones.

In most cases, the axle with independent wheel control will likely be the tractor's drive axle(s). Commenters, including AAMA, Midland-Grau, and Bendix, submitted to the agency road testing data about how certain antilock systems improved the braking efficiency and directional control and stability of various vehicle configurations. Based on these data, the agency believes that independently controlling the drive axle(s) will result in incrementally better braking performance on split mu road surfaces than the other ABS equipment configurations that are permitted on the other vehicle types covered by this rule.

Rockwell WABCO correctly stated that allowing select low ABS on all axles will result in substantially longer stopping distances on split mu surfaces, particularly when the differences between the coefficients of friction on the two surfaces is large. Notwithstanding this shortcoming, the agency believes that a select low system is appropriate for the front axle for the following reasons. First, since the front axle brakes typically provide about 25 percent of the braking on a truck tractor, the stopping distance degradation with select low on the front axle will be small. Second, having equal braking forces at each wheel alleviate steering wheel ''pull'' that would occur on a split mu surface with ABS independently controlled front brakes. Third, current antilock systems installed on the front axle of heavy vehicles tend to use SLR, MSHR, or MIR wheel slip control strategies.[32] No vehicle manufacturer uses a system in which front axle control is purely independent wheel control. Accordingly, the agency has determined that it would be inappropriate and impracticable to prohibit the use of select low control on front axles.

NHTSA has also decided that it is necessary to prohibit tandem control on tractors to further ensure the safe braking performance for tractor trailers. This decision is based on test data[33] which indicate that tandem control does not provide an acceptable level of stopping distance performance for truck tractors, even though it may ensure a heavy vehicle's stability and control.

Notwithstanding its decision to prohibit tandem control on truck tractors, NHTSA has decided that tandem control is appropriate for vehicles other than truck tractors, such as trailers and single unit vehicles. Vehicle test data submitted by Ford, Bendix, and Midland showed comparable vehicle stopping distance performance, and in some cases superior performance, of tandem control (2S/1M) systems compared with side-by-side control (2S/2M) systems, without any difference in vehicle stability performance. Vehicle test data also showed comparable ABS performance with MSHR tandem control on trailer axles. Accordingly, today's requirements permit direct control 2S/1M systems for converter dollies, semitrailers, and the front axles of full trailers. The agency further notes that single unit vehicles equipped with 4S/2M systems have been approved for use in Europe as ''Category 1'' systems.

C. Braking-In-A-Curve Test

1. General Considerations

As explained in the previous section on equipment requirements, NHTSA proposed requiring heavy vehicles to be

[32] SLR, MSHR, MIR and other wheel slip control strategies are discussed in the Appendix.

[33] ''Improved Brake Systems for Commercial Motor Vehicles,'' DOT HS 807 706, April 1991,

equipped with antilock systems, and supplementing that requirement with dynamic performance requirements to check the directional stability, control and stopping distance of such vehicles. The agency proposed only those dynamic performance requirements that it believed would be feasible and practicable for checking the directional stability of a vehicle when it is maximally braked. Specifically, in its September 1993 NPRM, the agency proposed a ''braking-in-a-curve requirement'' on a low coefficient of friction surface without a stopping distance requirement. Under this proposed requirement, heavy vehicles would have to be capable of stopping without loss of directional stability or control, while turning on a slippery surface during an aggressive or ''hard'' stop. Separately, in its February 1993 NPRM, the agency proposed braking effectiveness requirements through the use of high speed (60 mph) stopping distance requirements on a high coefficient of friction road surface.

NHTSA explained, in the September 1993 NPRM, its tentative conclusion that the braking-in-a-curve test on a low mu surface is an objective, repeatable, and practicable procedure for evaluating a heavy vehicle's directional stability and directional control. The agency further explained that the proposed braking-in-a-curve test is consistent with industry's views, since the Antilock Test Procedure Task Force of the Motor Vehicle Safety Research Advisory Committee (MVSRAC) recommended this procedure and the SAE has proposed it in Recommended Practice J1626, *Braking, Stability, and Control Performance Test Procedures for Air-Brake-Equipped Truck Tractors.*

In response to the NPRM, Advocates stated that the agency's proposal to specify both an equipment and dynamic performance requirement was the most appropriate way to ensure that the substantial safety benefits of heavy vehicle ABS are realized quickly. Rockwell WABCO reluctantly supported the proposed combination of an equipment specification and a dynamic performance test, given the current difficulty in formulating valid additional, repeatable performance criteria. Midland-Grau favored this approach for truck tractors since it believed that merely issuing an ABS requirement, without an accompanying performance requirement, would allow ineffective systems in the marketplace.

Allied Signal supported the braking-in-a-curve test for truck tractors, but opposed the test for other vehicles, stating that vehicles other than truck tractors have not been tested using this maneuver. Midland-Grau was also concerned that very little test data have been collected on vehicle types other than truck tractors. Volvo-GM stated that the test is unsafe for many vehicles, and that a dynamic performance requirement is not necessary, given the provision requiring ABSs. AAMA stated that although it generally favors performance-based dynamic requirements for Federal Motor Vehicle Safety Standards, it opposes the braking-in-a-curve test given what it perceives as its ''overwhelming practicability and objectivity problems.'' Among AAMA's concerns were that (1) there has been no test program by NHTSA to decide whether the test is suitable for single-unit trucks, buses, and trailers, (2) the braking-in-a-curve test alone cannot evaluate the effectiveness of an ABS, (3) there is a lack of repeatability of the braking-in-a-curve test procedure, and (4) no suitable test facilities exist for vehicle manufacturers to conduct compliance testing. Given these concerns, AAMA favored adopting, on an interim basis, an equipment requirement only.

ATA, Strait-Stop, and several other commenters supported a dynamic performance-based requirement instead of an equipment requirement. They believed that this approach would encourage further development of antilock technology and would enable users to find the system that best suits their operation. ATA was concerned that an equipment requirement would preclude the development of more effective systems for different applications.

TTMA believed that the braking-in-a-curve test is inappropriate for trailers. It stated that trailer manufacturers, many of which are small entities, do not have the financial resources or the facilities to conduct road testing.

After reviewing the comments and other available information, NHTSA has decided to amend the Standard to include the braking-in-a-curve test for certain vehicles. The agency considered requiring surface transition tests (i.e., a test maneuver in which vehicle braking begins on a high coefficient of friction surface and then completes the stop on a low mu surface, and vice versa), a lane change test, and split mu or side-to-side differential coefficient of road surface friction tests, to achieve that objective. The tests would ideally be conducted at various speeds with different loading conditions and test surfaces. However, the agency has decided that it would be unnecessarily burdensome and costly to impose such an array of tests on heavy vehicle manufacturers. NHTSA has determined that the performance testing and equipment requirements imposed in today's final rules are the most appropriate method of ensuring directional control and stability.

NHTSA has decided at this time to apply the braking-in-a-curve test to truck tractors, but not to other heavy vehicles. The agency believes that opposition by AAMA, Volvo-GM, and Midland Grau to the braking-in-a-curve test requirement is based primarily on uncertainty about whether the test would also be required for single-unit vehicles, since the MVSRAC ABS Task Force developed the braking-in-a-curve test procedure for testing only truck tractors. Since neither the agency nor the Task Force included single-unit vehicles in the test program, NHTSA believes that AAMA and the others are concerned about whether the braking-in-a-curve test would appropriately evaluate directional stability and control of single-unit vehicles. Accordingly, NHTSA's decision to apply the braking-in-a-curve test at this time only to truck tractors should reduce the concerns of AAMA and other commenters that opposed this dynamic performance test.

With respect to truck tractors, NHTSA has concluded that the road tests performed by the agency and the ABS Task Force provide sufficient justification to apply the braking-in-a-curve test to these vehicles. The agency notes that the industry, through the MVSRAC, previously endorsed and recommended to the agency, essentially the same dynamic performance test that is contained in this final rule. The Task Force test data and final report indicate that the braking-in-a-curve procedure is safe, practicable, and repeatable for truck tractors. Accordingly, the agency believes that this recommendation remains valid for tractor trailers.[34]

NHTSA has decided not to require single unit trucks, buses, and trailers to comply with the braking-in-a-curve test requirement at this time. The agency's limited testing of single unit trucks to the braking-in-a-curve maneuver revealed no specific safety problems. However, additional testing on a wider variety of trailers, dollies, and single-unit vehicles, including buses and trucks, would be appropriate to ensure that these vehicles could be safely tested to the braking-in-a-curve maneuver. Specifically, the agency is concerned that certain vehicles, especially ones with a high center of gravity, might be prone to roll over or otherwise lose control during such tests. NHTSA intends to develop performance test requirements equivalent to the braking-

[34] TRC of Ohio, Report No. 091194, page 4, August 26, 1991.

in-a-curve test for the other vehicle types covered by this rule, assuming that future research indicates it possible to conduct the test in a safe fashion and to obtain meaningful, repeatable results. The agency anticipates conducting additional research and road tests to decide whether heavy vehicles other than truck tractors should be subject to this road test.

Today's notice, including the agency's decision not to apply the braking-in-a-curve test to vehicles other than truck tractors, completes the comprehensive rulemaking to establish directional stability and control requirements that was initiated by the June 1992 ANPRM. If NHTSA decides that it is in the interest of motor vehicle safety to apply the braking-in-a-curve test to single-unit vehicles or trailers, then it will issue a new proposal to initiate a subsequent rulemaking on this matter.

2. *Test Surface*

In the NPRM, NHTSA proposed that the braking-in-a-curve test be conducted on a test surface with a peak friction coefficient (PFC) of 0.5 to represent a low coefficient of friction surface. In formulating the proposal, NHTSA considered whether the proposed test surface specification raised practicability or objectivity concerns in light of *PACCAR.* The agency specifically requested comments on the proposed test surface specification.

Three commenters addressed the test surface specification. Midland-Grau stated that since maintaining a precise PFC value is not feasible, reasonable fluctuations of ±10 percent are to be expected. Notwithstanding these inherent fluctuations, Midland-Grau commented that its testing shows that variability in the test surface PFC value of less than 10 percent does not affect the braking-in-a-curve test since no stopping distance is prescribed. AAMA stated that it is not possible to maintain a surface at a precise PFC. It further stated that it is not apparent whether it would be more conservative to conduct testing at a higher PFC than the proposed PFC. AAMA stated that the variability in the peak to slide ratio is significantly greater on wet surfaces than on dry surfaces, and that this ratio directly affects performance. Mr. Robert Crail, a brake engineer, stated without elaboration that using PFC rather than skid numbers will ensure that the test surfaces and test conditions will be reasonable and repeatable during actual vehicle testing.

Before addressing the specific comments about the test surface, the following discussion summarizes the *PACCAR* decision's findings with respect to variability and how today's rulemaking responds to that ruling. As a result of that case, NHTSA has considered ways to better specify test surface adhesion. Prior to the Standard No. 135, *Passenger Car Brake Systems,* rulemaking, NHTSA defined road test surfaces by specifying skid numbers. A skid number is the frictional resistance of a pavement measured in accordance with a test procedure defined by the American Society for Testing and Materials (ASTM). However, given the fluctuations of skid numbers on a given surface, the *PACCAR* ruling invalidated certain aspects of Standard No. 121's reliance on this measure based on its potential impracticability. In the rulemaking proposing Standard No. 135, several commenters advocated specifying the peak friction coefficient as an alternative measure of a test surface's adhesion. The agency has concluded that PFC is more relevant for the stopping distance tests required by the standard because, unlike a skid number, the maximum attainable deceleration in a non-locked wheel stop is more directly related to PFC. As discussed in the Appendix, the skid number characterizes the slide (locked wheel) value of the coefficient of friction of a given road surface, and the PFC characterizes the peak (rolling wheel) value of the coefficient of friction of a given road surface. Since the agency's brake test procedures generally prohibit or limit wheel lockup during brake testing, specifying the peak friction coefficient is more relevant than specifying the skid number of the surface.

NHTSA has also conducted ''Round Robin'' testing to understand further how fluctuations of PFC affect the stopping performance of heavy vehicles. Based on the above, NHTSA has decided that the braking-in-a-curve test should be performed on a test surface with a PFC of 0.5, which appropriately represents a typical low coefficient of friction road surface. Moreover, in today's companion rule adopting stopping distance requirements, the agency has decided it is appropriate to perform the primary 60 mph stopping distance tests on a test surface with a PFC of 0.9. Agency and industry testing indicate that a PFC of 0.9 represents a typical dry road surface.

The requirement to specify test surfaces in terms of PFC rather than skid numbers also responds to *PACCAR*'s concern about practicability problems caused by skid number fluctuations. Because the PFC values of surfaces measured may also indicate some fluctuation, the agency has considered whether the fluctuation significantly affects the requirement's objectivity. In an earlier rulemaking about Standard No. 208, the agency explained that since some variability in any test procedure is inherent, the agency need only be concerned about preventing ''unreasonable'' or ''excessive'' variability to avoid causing manufacturers to ''overdesign'' vehicles to exceed the minimum levels of protection specified by the Federal safety standards. (49 FR 20465, May 14, 1984; 49 FR 28962, July 17, 1984.) With respect to the braking-in-a-curve test, variability of the PFC value of the test surface will have a negligible impact on a vehicle's ability to comply with the requirements, which is to stay within the 12-foot lane. Since the test speed is set at the lesser of 30 mph or 75 percent of the maximum drive-through speed [35] of the vehicle in the curve, any variability in the test surface will be compensated for by an increase or decrease of the maximum drive-through speed of the vehicle. If the maximum drive-through speed is less than 40 mph, this will result in a corresponding increase or decrease of the test speed, which cannot be higher than 30 mph. As a result, the variability of the test surface is not as critical an issue for the braking-in-a-curve test as it is for a stopping distance test on a high coefficient of friction surface, which includes a stopping distance measurement that is more affected by test surface variation. Based on these considerations, the agency has determined that the results of the braking-in-a-curve test will not be affected by minor variations in the test surface.

The road surface requirements comply with *PACCAR*'s holding that manufacturers are entitled to testing criteria that they can rely on with certainty, since they include objective terms and requirements, i.e., the test surface is at a PFC of 0.5. For the same reason, the requirements also comply with *PACCAR*'s requirement that all methods to demonstrate compliance with the requirement be set forth in the regulation.

In evaluating the requirement's practicability, NHTSA has considered possible difficulties with respect to building and maintaining test surfaces with a PFC of 0.5 for the braking-in-a-curve test and 0.9 for the high coefficient stopping test. (Those interested in building and maintaining a test surface should refer to NHTSA's

[35] Maximum-drive-through-speed is defined as ''the highest possible constant speed that the vehicle can be driven through 200 feet of a 500-foot radius curve arc without leaving the 12-foot lane.''

''Manual for the Construction and Maintenance of Skid Surfaces,'' (DOT HS 800 814.) Variations in PFC for high coefficient of friction surfaces do not affect stopping distance test results appreciably. Moreover, while variations in PFC for low coefficient friction surfaces may affect the distance in which a vehicle stops, such variations are not relevant for the braking-in-a-curve test, which requires a vehicle to remain stable while it is stopped, not that it stop within a specified distance. After reviewing the comments and available information, NHTSA has concluded that specified test surfaces can be achieved and maintained. As explained above, recent ''Round Robin'' testing related to research about heavy vehicle braking by the agency and others on several test tracks indicates that the test surface specification does not raise practicability or objectivity concerns.[36]

One of the *PACCAR* court's concerns was that the road surface skid numbers were based on an out-of-production tire. That concern is not relevant to today's final rule since it specifies a currently-produced tire. The requirements comply with *PACCAR*'s concern about the testing method's objectivity because the peak coefficient of friction is an objective measure.

NHTSA disagrees with AAMA's comment that it is not apparent whether it would be more conservative to conduct testing at a higher PFC than the proposed PFC. Data from the round-robin testing and other sources show that the stringency of a braking-in-a-curve test increases as the PFC of the test surface decreases, if the tests are conducted at the same vehicle speed. Since the requirement specifies a test speed based on the vehicle's maximum drive-through speed, which decreases as the test sequence PFC decreases, the resulting test speed will also be lower as the PFC decreases. Hence, the stringency of the braking-in-a-curve test should not change with minor changes in the PFC of the test surface.

NHTSA has decided that AAMA's other comments about the test surface requirement are without merit. That organization did not provide any data to substantiate its statements. Nor did it explain why it believes that ''variability in the peak to slide ratio'' is relevant. Similarly, AAMA's comment about ''simultaneously maintaining a given surface at a precise PFC and sliding coefficient (i.e., skid number) [being] completely infeasible'' is irrelevant to this rulemaking. The agency has never proposed a test surface requirement that specifies both the PFC and skid number values.

3. Test Speed

In the NPRM, NHTSA proposed that the braking-in-a-curve test be conducted at 30 mph, unless the vehicle could not stay within the 12-foot lane when driven through the curve at 30 mph. If the vehicle could not do so, the braking-in-a-curve test would be conducted at 75 percent of the maximum drive-through speed. NHTSA believed that the proposed vehicle test speed was sufficiently high to test ABS performance, but low enough so as not to pose an unsafe condition during the maneuver to the test driver of most vehicles, based on testing conducted by the agency [37] and SAE J1626 Proposed Recommended Practice. The agency requested comments about the proposed test speed.

Advocates opposed any reduction in the test speed below 30 mph. Specifically, it opposed permitting vehicles that cannot negotiate the curve at 30 mph to be tested at the 75 percent drive-through speed because it believed that this would be a ''free-floating criterion'' that could lead to ineffective antilock systems.

Rockwell WABCO, Allied Signal, Midland-Grau, and AAMA requested that the test speed be clarified. Rockwell WABCO recommended that the vehicle test speed requirement be revised to read ''stopped from 30 mph or 75% of the maximum drive through speed, whichever is less.'' Similarly, Allied Signal suggested that the vehicle test speed be clarified to say that testing cannot exceed 30 mph. Midland-Grau recommended that the agency revise the requirement so that the test be conducted at only 75 percent of the maximum drive-through speed capability. It further stated that conducting the braking-in-a-curve test at speeds greater than 30 mph on a low mu surface could cause safety problems. AAMA stated that the NPRM incorrectly applied SAE J1626, which requires testing at 75 percent of drive-through speed to a maximum of 30 mph braking speed. It stated that under the proposal, a vehicle with a drive-through speed of 30 mph would be tested at 30 mph, while a vehicle with a drive-through speed of 29 mph would be tested at less than 22 mph. In opposing the proposed requirement, AAMA further stated that the determination of the drive-through speed is highly sensitive to driver skill, subtle vehicle maneuvers, and environmental conditions, and is therefore not repeatable.

ATA recommended that NHTSA establish stopping or snubbing distance requirements for vehicles in a curve, using a braking speed which is between 95 and 100 percent of their maximum drive through speed.

After reviewing the comments and available information, NHTSA has decided to specify that a vehicle's test speed for the braking-in-a-curve test is ''30 mph or 75% of the maximum drive-through speed, whichever is less.'' This modification responds to the comments by Rockwell WABCO, Allied Signal, and Midland-Grau that the proposal was not consistent with SAE J1626. The agency believes that making the speed consistent with SAE 1626 will eliminate the possibility of discontinuities in the test's stringency for different vehicles. As AAMA correctly stated, the proposed test speed created an anomaly that benefitted vehicles with a maximum drive-through speed slightly below 30 mph. For example, a vehicle with a maximum drive-through speed of 29 mph would have been tested at 22 mph, while a vehicle with a maximum drive-through speed of 30 mph would have been tested at 30 mph. This would have meant that a 1 mph difference in maximum drive-through speed would have resulted in a 8 mph difference in test speed. This could have caused significant variations in test results for vehicles with slight differences in maximum drive-through speed. By establishing a test speed that is adjusted for differences in maximum drive-through speed and that would be more specific and distinct for each vehicle and test surface, the agency has minimized potential compliance testing problems that might occur due to variability in the test speeds for different vehicle and road test surface conditions.

NHTSA notes that ATA's requested test speed and test conditions have not been tested by the agency or industry and therefore their adoption would not be appropriate at this time. The agency may evaluate ATA's proposal in future test programs.

NHTSA believes that Advocates' opposition to permitting test speeds below 30 mph is unfounded. Similarly, the agency believes that AAMA's concern about the drive-through speed being unrepeatable is irrelevant. By allowing vehicles to be tested at 30 mph or 75 percent of maximum drive-through speed, whichever is less, the effects of test surface variation are eliminated.[38]

[36] TRC Report, August 21, 1991, page 6.

[37] TRC Report, August 26, 1991.

[38] TRC Report, page 10.

4. Type of Brake Application

In the NPRM, NHTSA proposed that the stops be achieved through full brake applications in which the pressure at the treadle valve must reach 100 psi within 0.2 seconds after the application is initiated. The agency believed that these values properly represent full brake applications, in terms of both the application's degree of force and its duration. The agency stated that the stability and control requirements should evaluate worst case braking applications in an aggressive or ''hard'' stop and that full brake applications are more readily repeatable than the ''driver best effort'' applications.

Midland-Grau agreed with the proposal to specify a full treadle application of 100 psi in 0.2 seconds for air braked vehicles. According to Midland-Grau's test data, full treadle applications at 100 psi were achieved in 0.12 to 0.18 seconds, with the measurement taken at the treadle valve's primary output circuit located at the rear axle brakes. However, more time is needed to reach 100 psi at the secondary circuit located at the front axle brakes because its output supplies air to the quick release valves and then to the front axle brake chambers. Allied Signal stated that it is not possible to reach 100 psi within 0.2 seconds at the front axle output circuit of the treadle valve.

After reviewing these comments, NHTSA has decided to revise the brake application requirement for air braked vehicles to require 100 psi in at least one of the treadle valve's output circuits within 0.2 seconds, thereby allaying Allied Signal's concern. This modification to the test condition should eliminate potential ambiguity concerning where the application pressure is to be measured.

5. Number of Test Stops for Certification

In the NPRM, NHTSA proposed that a vehicle comply with the proposed braking-in-a-curve test in each of three consecutive stops for each combination of weight and road conditions. In contrast, the vehicle stopping performance tests in Standard No. 105 and Standard No. 121 specify that the vehicle must meet the requirements at least once in six attempts through a best effort brake application. The agency tentatively concluded that six stops should not be needed to achieve the required performance in the braking-in-a-curve test, given the presence of an antilock brake system. The agency requested comments about the number of brake applications that should be required.

Advocates, Midland-Grau, and Mr. Crail stated that three stops are sufficient for a vehicle with an antilock brake system to display compliance with the braking-in-a-curve test. They stated that without stopping distance requirements, this test procedure entails a simple performance test for the vehicle to maintain control in the 12-foot lane. Midland-Grau added that it uses three stops when conducting ABS performance tests, and that this number of brake applications is consistent with the SAE J1626 Recommended Practice and with the MVSRAC Antilock Brake System Task Force's final recommendations.

AAMA argued that specifying three passes in three consecutive stops places an unrealistic burden on the driver to control the vehicle immediately with no opportunity to become familiar with the vehicle or test surface. AAMA recommended that manufacturers be given the option of conducting ten or more stops and certifying that the vehicle stayed within the 12-foot lane for any three consecutive stops.

After reviewing the comments and the available information, NHTSA has decided that requiring compliance with the braking-in-a-curve requirements during three consecutive stops is appropriate. The agency notes that specifying three consecutive full treadle test stops is consistent with both the agency's own testing at VRTC and its testing in conjunction with the motor vehicle industry through the MVSRAC ABS Task Force. The use of full treadle brake applications to test an ABS-equipped vehicle to the braking-in-a-curve maneuver requires less driver skill than the use of a driver's-best-effort modulated brake application (i.e., the type of application used in stopping distance performance tests) because the ABS automatically modulates the brakes. Further, more than three stops are unnecessary since the braking-in-a-curve test requirement is not coupled with a stopping distance requirement. Therefore, NHTSA has decided not to adopt AAMA's suggestion that manufacturers be given the option of complying with only three of ten stops. Adopting that suggestion would make the braking-in-a-curve requirement unreasonably lenient.

6. Test Weight

In the NPRM, NHTSA proposed that single unit trucks, buses and bobtail truck tractors be tested at their curb weight (including full fuel tanks) plus 500 pounds to account for the driver and instrumentation. The agency also proposed to allow a manufacturer to conduct the braking-in-a-curve test with a roll bar structure weighing up to an additional 1,000 pounds to protect the driver, based on a recommendation by the MVSRAC ABS Task Force. The agency requested comments about the appropriate unloaded test weight.

Rockwell WABCO recommended that unloaded heavy vehicles be allowed to have less than 500 pounds added in the unloaded condition.

After reviewing Rockwell WABCO's comment, NHTSA has decided to amend the test condition in the braking-in-a-curve test to specify the weight in the unloaded condition to be ''up to 500 pounds'' for driver and instrumentation.[39] The agency notes that instrumentation hardware has been getting more compact and lightweight. Using the regulatory language ''up to 500 pounds'' will simplify the test condition since manufacturers will not have to add ballast to ensure that the weight is 500 pounds. This change provides manufacturers with greater incentive to use the newer, lighter hardware. The agency believes that this modification will have no measurable effect on a vehicle's performance during the braking-in-a-curve test since a weight range of a few hundred pounds is of little significance in relation to a tractor's typical empty weight of more than 26,000 pounds.

7. Loading Conditions

In the NPRM, NHTSA proposed that braking-in-a-curve tests be performed in both the empty and loaded conditions, since a vehicle's braking performance varies depending on the amount of load that it is carrying. With respect to testing truck tractors in the loaded condition, the agency proposed two alternatives regarding the use of control trailers: (1) use a braked control trailer and (2) use an unbraked control trailer.

Most commenters, including AAMA, Rockwell WABCO, and Midland-Grau, supported the unbraked control trailer alternative. These commenters believed that using an unbraked control trailer instead of a braked control trailer would eliminate many sources of variability and would provide more consistent and repeatable test data. AAMA stated that if the braked control trailer alternative were adopted, every aspect of the control trailer brake system would have to be precisely specified because the tractor's performance is directly affected by the performance of the control trailer. Midland-Grau stated that using an unbraked control trailer is consistent with SAE J1626 and the testing

[39] The final rule also adopts the 1,000 pound allowance for a roll bar.

performed by the MVSRAC ABS Task Force.

Similarly, commenters on the February 1993 stopping distance NPRM strongly supported the unbraked control trailer alternative. Those commenters believed that the agency would have great difficulty defining the required performance of a braked control trailer and its ABS if the braked control trailer alternative were adopted.

Mr. Crail and Strait-Stop stated that a truck tractor should be tested with an ABS-equipped control trailer because it is not normal for a combination vehicle to be operated with an unbraked control trailer. They believed that a braked control trailer would more closely reflect real world braking. Mr. Crail also stated that an unbraked control trailer could result in instability during testing.

After reviewing the comments and other available information, NHTSA has decided to specify that truck tractors be tested with an unbraked control trailer for the braking-in-a-curve test. As the agency explained in the NPRM, the unbraked control trailer eliminates certain types of variability and provides more repeatable test data. Moreover, this approach eliminates the need for the agency to specify and vehicle manufacturers to comply with detailed foundation brake design requirements for the control trailer. Accordingly, the unbraked control trailer will provide more readily comparable test data among vehicles and more repeatable test parameters for manufacturers.

NHTSA acknowledges that an unbraked control trailer does not represent a typical operating condition for a combination vehicle. As a result, real world combination vehicles will stop more effectively than a test combination vehicle that has brakes on its tractor but not on its trailer. Nevertheless, as most commenters stated, the unbraked control trailer provides significant benefits for testing a loaded truck tractor. Further, using the unbraked control trailer is consistent with SAE J1626 and the testing performed by the MVSRAC Task Force.

As for Mr. Crail's concern about stability problems during testing, NHTSA does not agree that the use of an unbraked control trailer will result in such problems. It is true that using an unbraked control trailer will result in the kingpin receiving additional forces, since the trailer will still be pushing on the kingpin while the tractor is braking. However, the agency and industry conducted several braking-in-a-curve tests with unbraked control trailers that indicated that these additional kingpin forces will not increase a vehicle's instability during testing.[40]

8. Initial Brake Temperature

In invalidating parts of Standard No. 121, the court in *PACCAR* stated that the standard failed to specify formal and reasonably specific testing criteria about the time intervals between tests. The time interval between tests is important because it may affect brake temperature and thus brake lining performance. In response to *PACCAR*, the agency amended the standard to specify that the average brake lining temperature of the hottest axle be between 150° and 200 °F before performance tests could be conducted.

In the February 1993 NPRM on stopping distance and the September 1993 NPRM on stability during braking, NHTSA proposed that the average brake lining temperature of the hottest axle be between 250° and 300° F before performance tests could be initiated. This range was based on testing conducted by VRTC[41]. The agency believed that compared to current requirements, this provision would allow tests on heavy vehicles to be conducted within a shorter time between measurements at temperatures representative of in-service conditions, without affecting brake performance.

Only Advocates commented on the proposal in the stability and control NPRM to increase the initial brake temperature from 150–200 °F to 250–300 °F. Advocates supported the higher temperature range, stating that it is reasonable and representative of in-service temperature conditions. However, NHTSA received numerous comments about this issue in response to the stopping distance NPRMs. All commenters addressing the issue of initial brake temperature in those rulemakings strongly opposed the proposed change in temperature from 150–200 °F to 250–300 °F. Lucas argued that the higher initial brake temperature would be detrimental to drum brake performance. Lucas, HDBMC, and Rockwell WABCO stated that the proposed initial brake temperature would invalidate the vehicle manufacturer's data bank from Standard No. 121 testing at 150–200 °F, which has been accumulating since the 1970s. Midland-Grau commented that, among other things, the higher initial brake temperature would lead to more aggressive lining materials and vehicle compatibility problems.

Abex, AAMA, and HDBMC stated that the proposed higher initial brake temperature would shorten testing time between 5 and 10 hours. However, they believed that problems associated with brake fade resulting from the higher initial brake temperature would far outweigh the nominal cost savings obtained by having a shorter test time. Test data provided by AAMA showed that while the higher initial brake temperature has a slight adverse effect (a 7–28 foot increase) on full service brake stopping distance, it has a significant adverse effect (a 25–98 foot increase) on emergency brake stopping distance.

Rockwell WABCO stated that the perceived benefits of the higher initial brake temperature do not justify the increased vehicle testing and redesign that would be required to meet the proposed initial brake temperature.

After reviewing the comments, the test data, and other available information, NHTSA has decided that an initial brake temperature in the 150 °F to 200 °F range is more appropriate than the proposed temperature range. As the commenters stated, testing using the 150 °F to 200 °F temperature range is more repeatable and results in less variation between runs, compared to testing conducted using an initial brake temperature of 250 °F to 300 °F, particularly for the emergency brake stops. The agency further notes that an initial brake temperature of 150 °F to 200 °F is within the 150 °F to 300 °F range recommended by the VRTC test report. The agency is aware that the lower temperature range increases the total test time by 5 to 10 hours. Nevertheless, because the other advantages to the lower temperature range outweigh this concern, NHTSA has decided not to change the specification that the initial brake temperature be between 150 to 200 °F.

9. Transmission Position

In the NPRM, NHTSA proposed that the transmission be in neutral or the clutch pedal be depressed (clutch disengaged).

ATA commented that, in real world panic stops, drivers will neither put the transmission in neutral nor depress the clutch pedal before making a brake application. Nevertheless, ATA acknowledged that retardation by the drivetrain could cause vehicle instabilities that would necessitate testing at speeds lower than the drive through speed.

NHTSA has concluded that testing with the transmission in neutral or the clutch disengaged is appropriate to ensure that engine retardation does not affect a test which is intended to

[40] TRC Report #091194, page 4.

[41] ''Heavy Duty Vehicle Brake Research Program—Report No. 1,'' April 1985.

evaluate the influence of brake systems on vehicle dynamic stability. Engine and drivetrain retardation forces vary from vehicle to vehicle and can affect vehicle stability on low coefficient of friction surfaces. Nevertheless, this is not the purpose of this test. By requiring that the transmission be placed in neutral for brake testing, the standard attempts to reduce these drive-train related braking influences on the service brake performance. Therefore, testing with the transmission in neutral or the clutch disengaged will eliminate influences that engine or drivetrain retardation would have on braking performance. This test condition therefore helps to ensure test repeatability and reproducibility.

10. Summary of General Test Conditions

For the convenience of the reader, this section summarizes the general test conditions being adopted in this notice, as follows:

- Vehicle Position—Centered in the test lane at the initiation of braking.
- Steering—Driver to steer as necessary during braking to maintain vehicle control.
- Initial Brake Temperature—The average brake lining temperature of the hottest axle between 150 to 200 °F.
- Transmission—Neutral (or clutch pedal depressed).
- Loading for Truck Tractors

Empty (Bobtail): Curb Weight (including full fuel tanks) plus up to 500 pounds for driver and instrumentation, and, at the manufacturer's option, a roll bar weighing up to 1,000 pounds.

Loaded: Tractor is loaded with an unbraked control trailer, loaded above the kingpin only, so that the tractor is at GVWR and the trailer axle is at 4500 pounds. Tractor weight is distributed in accordance with the Gross Axle Weight Ratings (GAWRs). If the tractor's fifth wheel is fixed, preventing such loading, then the trailer is loaded until any one tractor axle reaches its GAWR.

- Brake Burnish—Follow procedures in S6.1.8(b) of Standard No. 121.

Low Mu Braking-In-A-Curve Test

- Run vehicle, empty and loaded.
- Test Surface—PFC of 0.5, as determined with the ASTM E1136 SRTT tire on ASTM traction trailer using ASTM E1337–90 procedure.
- Track Configuration—500 foot radius at lane center line.
- Test Speed—30 mph or 75 percent of the maximum drive-through speed, whichever is less. Maximum drive-through speed is the highest constant speed at which the vehicle can be driven through 200 feet of curve arc without any part of the vehicle leaving the 12-foot lane.
- Brake Application—Three full-treadle applications (i.e., air pressure of 100 psi at any treadle valve output circuit within 0.2 second) for each loading condition.
- Test Failure Condition—Vehicle must stay within the 12- foot lane during all three stops in order to comply with requirement.

D. Reliability and Maintenance

In response to the SNPRM, ATA, United Parcel Service (UPS), and Tramec expressed concern about the durability, reliability, and maintenance of ABSs. ATA stated that the rule, if adopted, would result in significant maintenance problems, especially with respect to failures of electrical circuits and of the power source. It claimed that ABS components fail too often and that real world failure rates are higher than those in NHTSA's demonstration program. ATA further stated that it is inappropriate to compare the failure rates of ABS components that are not subject to wear with the rates for components, like brake linings and tires, that are subject to wear. ATA stated that existing connectors fail in large numbers and that what it mistakenly termed a ''separate connector requirement'' would double the failure rate, resulting in unreasonable costs.[42] It also stated that there have been many problems resulting from inadequate installation of ABSs, since malfunctions are frequently due to design problems, faulty installation, and lack of knowledge about ABS maintenance. ATA also stated that NHTSA did not take seriously enough malfunctions noted during the agency-sponsored in-service fleet study, which were rectified with only the expenditure of labor, namely corrections that involved inspections or minor adjustments.

ATA and UPS stated that new ABS equipped heavy vehicles have a high percentage of ''direct from factory'' ABS failures. UPS stated that ''these systems are still plagued by incidents of failure that far exceed the normal level of problems encountered with other components of heavy duty trucks.'' ATA also stated that NHTSA did not take labor only failures (i.e., malfunctions that can be fully corrected through the use of labor without the need for new parts) seriously enough. ATA believes that they are a costly and serious problem that takes vehicles out of service.

To evaluate the reliability of current-generation ABSs, NHTSA has conducted extensive field studies of ABS-equipped heavy truck tractors and semitrailers in developing this final rule. In response to the *PACCAR* decision, these studies were structured to assess whether current-generation heavy vehicle antilock brake systems were reliable and fail-safe, whether they inordinately increased vehicle maintenance costs, and whether they could be successfully maintained and would remain functioning in typical U.S. heavy truck operating environments.

Between 1988 and 1993, NHTSA tracked the maintenance performance histories of 200 truck tractors and 50 semitrailers equipped with ABS, as well as the histories of a comparison group of 88 truck tractors and 35 semitrailers not equipped with ABS, to determine the incremental maintenance costs and patterns associated with installing ABS on these heavy vehicles. Additionally, special on-board vehicle recorders were used to monitor the functioning and performance of the ABSs. Finally, drivers and mechanics at the participating test fleets were periodically interviewed to ascertain their views about the ABS test vehicles' performance and ease of maintenance. This multimillion dollar program was the largest of its kind that has ever been conducted by the agency or throughout the world. The study's authors concluded that, based on the data collected during the fleet study, currently available antilock braking systems are reliable, durable and maintainable.

While ABS is not a zero-cost maintenance item, its presence on a vehicle did not substantially increase maintenance costs (less than 1 percent for tractors, less than 2 percent for trailers) or decrease vehicle operational availability. Specifically, ABS use does not involve appreciably more intensive maintenance than present brake systems. The agency finds that the average annualized increase in lifetime maintenance costs ($3.47–$27.49 per vehicle) occasioned by the use of ABS, as indicated in the Final Economic Assessment (FEA) for this rulemaking, is a reasonable amount of additional maintenance. Further, the agency notes that a significant portion of the costs noted during the fleet study (i.e., those attributed to intermittent malfunction warning indications for which no problem was found and the system was simply reset or a simple adjustment was made) are likely to be reduced or eliminated as the algorithms inside the ECU that trigger ABS malfunction warnings are further refined to make them more discriminating, and as

[42] The agency notes that it is requiring powering through a separate circuit, not a separate connector.

quality control and installation skill improve.

NHTSA further emphasizes that system malfunctions do not render the vehicle's braking system unsafe, since the brake system merely reverts to one without an ABS; in other words, foundation brakes are unchanged when ABS is added. The few incidents noted during the test program in which an ABS malfunction did compromise the vehicle's underlying brake system performance involved defective components.

In both the tractor and the trailer studies, some test vehicles either arrived in the test fleets with faulty ABS or had ABS malfunction indications shortly thereafter, as a result of what was termed installation or pre-production design related problems. In general, these problems were easily remedied. Many were corrected by adjustments or minor repairs. Most were at least partially attributable to the prototype nature of many of the installations accomplished for this test program.

The following examples illustrate the relatively minor nature of correcting most of the problems. (The agency notes that none of the problems listed affected vehicle braking.)

- The electrical power source for the ABS ECU on a group of four trucks was incorrectly wired, at the time of installation, through the starter solenoid. These four trucks had to be rewired to make the ABS function properly.
- Intermittent failure warnings were noted on three trucks from the beginning of their operation. Upon inspection, the trucks were found to have an incompletely assembled connector in the wiring harness. When this problem was corrected, the failure warnings ceased.
- A group of 23 tractors had to be rewired to provide a separate electrical power source for the dash-mounted failure warning lamp so that it could function properly. The miswiring occurred during installation.
- The ABS modulator valves on a group of 12 tractors had to be relocated on the vehicles' frame rails to eliminate an inadvertent physical interference problem with the vehicles' driveshafts. This problem occurred as a result of an oversight during installation.
- On one truck, a sensor cable needed to be rerouted and resecured because of an interference/pinching problem with the wire and the steering gear.

NHTSA emphasizes that these problems and others like them do not reflect inherent design flaws with ABS's principal components (i.e., the ECU, modulators, and wheel speed sensing hardware). Instead, they involve wiring and installation problems. This highlights the importance of using high quality wiring components and paying close attention to installation details. The agency anticipates that the frequency of these problems will be lower than that experienced during the agency's test program once ABS production/installations increase to a level high enough to enable the quality control programs typically utilized by suppliers and truck manufacturers to take effect.

An average of 1.35 labor hours and $106.46 in replacement component parts costs per test truck tractor were necessary to rectify these installation/pre-production design related problems. Comparable figures for semitrailers were 1.9 labor hours and $65.36 in parts costs. All these costs are usually recovered by fleets under the terms of typical warranties offered by ABS suppliers and/or truck manufacturers. NHTSA notes that the start-up or installation/pre-production design related problems that the test fleets experienced are similar to the experiences that fleets were reported to have had with other devices such as electronically-controlled engines when they were first introduced on heavy trucks in the mid-1980's.

During the two-year period in which the reliability of these systems was evaluated, 200 ABS-equipped test tractors accumulated 39,818,659 miles of travel. During that time period, 126 trucks (63 percent) needed ABS-related maintenance that could best be attributed to normal service wear factors rather than installation or pre-production design related problems. A total of 421 incidents of this type occurred with the 125 trucks, the majority (321 or 76 percent) of which involved inspections/adjustments. The remainder (100 or 24 percent) involved repairs/replacements. All brands of the ABSs involved in the test program experienced incidents of this type at one time or another during their in-service operation.

Forty vehicles experienced more than one failure warning, interspersed over time, with two vehicles experiencing 35 and 31 separate indications (23 percent of the total resets), respectively, without the source of the problem being uncovered. Two other trucks experienced 12 and 10 separate indications respectively. These four vehicles (4.5 percent of the trucks experiencing this problem) accounted for 30 percent of the total intermittent failure warning indications and resets.

All five ABS suppliers' systems experienced intermittent failure indications with at least one of their forty test trucks involved in the test program. In each case, the ABS was either manually reset or the warning light did not reactivate when the truck's ignition was turned off and subsequently turned on again at some later time. However, 61 percent of the total failure warning indications of this type, and 34 percent of the vehicles experiencing intermittent failure indications, were attributable to one supplier's ABS. Another supplier's system accounted for another 18 percent of total failure warning indications and an additional 28 percent of the total vehicles involved. Since the time of the agency's test, both suppliers' systems have been modified to reduce the number of these false-positive malfunction indications.

The table shown below indicates the maintenance related to in-service wear that was required during the tractor portion of the program on each of the ABS components. Data are displayed by maintenance category (adjustments/inspections and repairs/replacements). Inspections and ECU resets associated with intermittent failure warning indications were the principal occurrence. In general, most of the work did not involve parts replacements. Parts replacement incidents totaled 40, with 55 percent of these (22) involving failure warning lamp bulbs or fuses. The total average number of in-service wear related maintenance incidents, including all inspections, adjustments, repairs and replacements was 2.11 incidents per truck over the two-year period of the test.

ABS IN-SERVICE WEAR RELATED MAINTENANCE INCIDENTS OVER THE TWO-YEAR PERIOD OF THE TEST, BY SYSTEM COMPONENT NEEDING WORK

ABS component	Number of trucks requiring inspections, adjustments, or repairs on this component	Number of trucks requiring replacement of this component
Wiring Cables	26	4
Wiring Connectors	19	2
Sensors and Related Parts	22	3
Modulator Valves and Related Parts	3	2
ECUs	19	7
Fuses and Lamps	7	18
System Resets	84	0
Total No. of Trucks per Column	118	32
Overall No. of Trucks Involved in the In-Service Related Incidents	125	

Note: Columns are not additive.

Replacing the 19 faulty major ABS components, and performing all the other inspections, adjustments and repairs that were in-service wear related, resulted in approximately 403 hours of labor expenditure and $4,068 for parts replacements. At a standard hourly rate of $35 per hour, the total cost of $18,173 for labor and parts amounts to 0.046 cent-per-mile (based on 39,818,659 total miles of travel) for the cost of maintaining the ABSs over the two-year period.

Inspections/ECU resets, which only involved labor expenditure, accounted for 45 percent of these total costs. Even though they occurred infrequently, ECU replacements tend to be costly, accounting as they did for 21 percent of the in-service wear related maintenance costs.

Similar findings were noted for the 50 ABS-equipped semitrailers that also were evaluated. The test vehicles accumulated 4,001,369 miles of in-service use during almost two years of operation during the program. During that time period, 23 semitrailers (46 percent) needed ABS-related maintenance that could best be attributed to normal service factors, rather than installation or pre-production design related problems. This compares favorably to the 63 percent of tractors requiring ABS service during the tractor program. A total of 44 incidents of this type occurred with the semitrailers, with the majority (29, or 66 percent) involving inspections or adjustments. The remainder (15, or 34 percent) involved repairs or replacements. These percentages are similar to the 76 percent for adjustments and inspections and 24 percent for repairs and replacements seen during the tractor program.

The following table shows in-service trailer maintenance that was required during the program for each category of ABS components. Inspections and ECU resets associated with failure warning indications were the principal occurrence. Parts replacement incidents totaled six, with three of these being status light bulbs and three speed sensors. In general most of the work did not involve parts replacement.

The average number of in-service maintenance incidents, including all inspections, adjustments, repairs, and replacements was 0.88 incidents per semitrailer over the two-year test period. This compares well with the 2.11 incidents per tractor seen during the tractor portion of this program.

Replacing six faulty ABS components, plus performing all other inspections, adjustments, and repairs that were in-service related, resulted in about 44 man-hours of labor expenditure and $234 for parts replacements. At a standardized hourly rate of $35 per hour, the total cost of maintaining the ABSs, for labor and parts, over two years ($1774) amounts to 0.044 cents-per-mile (based on 4,001,369 total miles of travel). The inspections and ECU resets (which only involved labor expenditure) accounted for 35 percent of the total costs. Comparable tractor figures are 0.046 cents-per-mile for total costs and 45 percent of the total costs for inspection and ECU reset, indicating that semitrailers performed very much like tractors.

ABS IN-SERVICE WEAR RELATED MAINTENANCE INCIDENTS OVER THE TWO-YEAR TEST PERIOD BY SYSTEM COMPONENT NEEDING WORK

ABS component	Number of semitrailers requiring inspections, adjustments or repairs on this component	Number of semitrailers requiring replacements of this component
Wiring Cables	4	0
Wiring Connectors	2	0
Sensors and Related Parts	10	3
Inspection, with No Problem Found (NPF)	12	0
ECUs	4	0
Fuses and Lamps	3	3

ABS IN-SERVICE WEAR RELATED MAINTENANCE INCIDENTS OVER THE TWO-YEAR TEST PERIOD BY SYSTEM COMPONENT NEEDING WORK—Continued

ABS component	Number of semitrailers requiring inspections, adjustments or repairs on this component	Number of semitrailers requiring replacements of this component
Total No. of Semitrailers per Column	23	6
Overall No. Semitrailers Involved in the In-Service Related Incidents	23	

Note: Columns are not additive.

At the completion of the overall 5-year test program, NHTSA conducted a final follow-up survey among the participating fleets. Among the 13 fleets that were continuing to maintain the ABS on the original test tractors, 97 percent of those tractors had functioning ABS. On the other hand, ABSs were not functioning on two-thirds of the original test tractors in the three fleets surveyed that chose not to continue maintaining the systems. This demonstrates that fleets must be willing to maintain the ABS if it is to be kept operational. An analogy can be drawn between the need to periodically inflate tires and the need to periodically perform minor, routine maintenance of ABS systems. Even though neither is time-consuming or costly, this type of maintenance is necessary if anticipated performance is to be achieved.

ATA commented on the SNPRM that the ABS repair/replacement rate (14–33 incidents per 100 vehicles per year) indicated in the agency's fleet study significantly understated the actual rate, citing the experience of one of its member carriers which recorded six to thirteen times as many ''repair incidents.''

Although NHTSA has not had the opportunity of reviewing the records ATA cited, the agency is inclined to believe that the difference in rates may be attributable to a difference in the definition of a ''repair incident.'' The agency fleet study data cited by the ATA (i.e., 14–33 incidents per 100 vehicles per year) were for ''repairs/replacements'' of ABS components. They did not include instances in which ''inspections'' or ''adjustments'' were made. For instance, adjustments of wheel speed sensors are not included in this total. This exclusion was necessary because comparable inspection/adjustment data were not available for the other vehicle components whose maintenance histories were being compared in the fleet study to that for the ABSs.

The above discussion accounts for all the in-service maintenance activity that was performed on the test ABSs. The ''monitoring'' to which ATA refers did not in any way contribute to or detract from the reliability data for the ABSs under evaluation. That monitoring was intended to ensure that all the maintenance work that was performed was recorded, so that a complete picture could be portrayed of the extent and nature of maintenance work that could be expected if U.S. heavy trucks were equipped with ABSs. Based on those data, the agency concludes that, overall neither unreasonable amounts or excessively costly additional maintenance will be imposed on U.S. heavy truck operators in order to maintain ABS. Thus, the agency disagrees with ATA's assessment that significant maintenance problems will arise ''* * * when the equipment is used outside the close monitoring it received in the NHTSA demonstration program.''

ATA further stated that ABSs are ''* * * not yet as durable as they must be for successful operation * * * in the U.S.'' That organization cited the fact that, as described above, three of the original participating fleets which ceased participating in the test program had appreciable proportions of non-functioning ABSs on their original test vehicles because they no longer maintained the systems.

NHTSA notes that this outcome could be anticipated with many other components besides ABS, that are installed on motor vehicles, for example, tires, engines, etc. All such components require periodic, and occasionally non-periodic, non-scheduled maintenance, in order to remain functional. Notwithstanding, the agency believes that the data contained in the two fleet study reports indicate that equipping vehicles with ABS is appropriate. Taken in total, those data indicate that, while ABS is not a zero-maintenance component, it is neither difficult nor unduly expensive to maintain. The fleet test results indicate that the level of maintenance attention needed to keep ABS functional is reasonable relative to the safety benefits that are estimated to result from use of these systems.

ATA also disagreed with the comparisons that were made in the agency's fleet study of repair and malfunction rates of ABS compared to other components on the vehicle that were susceptible to wear-related replacement. In the fleet study, comparisons were made between the maintenance histories of ABS and comparable histories for wheels/hubs, foundation brake components, pneumatic brake components, electrical system components, and tires.[43] These items were chosen because the agency believed that the maintenance patterns and costs of only these components could have been affected by the presence of ABS on the vehicle. The agency decided that it would be inappropriate to compare ABS maintenance results to items, such as engines and other drivetrain components, whose maintenance histories and costs would be unaffected by the presence of ABS.

ATA also questioned whether maintenance problems could have been underreported by a factor of 2.5 because the on-board recorders used during the trailer fleet study recorded less miles of travel (1.6 million vehicle miles of travel) than were accumulated by all the test trailers (4 million miles) during the test program. NHTSA notes that the maintenance history and cost data reported in the two studies were not affected by this discrepancy. The recorders were primarily used to obtain statistical information on the relative frequency of ABS activations per mile of travel. While their secondary purpose was to monitor ABS functioning, this was done only as a backup to the standard maintenance reporting and

[43] DOT HS 8070846, pages 3–24; DOT HS 808–059, pages 3–19, 3–20.

record-keeping activities of the participating fleets. The ABS maintenance histories that are reported in the fleet studies were derived from those maintenance records and are known to be thorough and complete.

ATA further believed that NHTSA's fleet studies underreported ABS maintenance problems. That organization cited incidents in which drivers failed to couple the second tractor-to-trailer electrical connector that was installed to power the ABS and instances in which drivers drove for an extended time period without reporting an ABS malfunction.

NHTSA believes that ATA's additional concerns about maintenance problems with ABSs are without merit. With regard to the first point, even though a limited number of drivers did not, in some instances, couple the separate tractor-to-trailer electrical connector, this fact does not affect whether those trailers' antilock systems received electrical power. The trailer ABSs in question were all wired redundantly to accept backup power from the stop lamp circuit on the other tractor-to- trailer electrical connector that the drivers did connect. Therefore, the ABSs on these trailers were functioning throughout the test using backup power from the standard tractor-to-trailer electrical connector, and were exposed to the possibility of malfunctioning just as much as the other test trailers in the study were.

As to ATA's claim that some drivers did not report a malfunction for an extended period of time, there were only a few instances of drivers driving for a time with non-functioning ABSs. The functional status of ABSs on test vehicles was checked, no less than monthly, by test study personnel, and often more frequently by fleet maintenance personnel. Therefore, in each case, the existence of a nonfunctioning ABS was detected after only a limited number of trips were made under that condition.

ATA attached to its comments letters from some of its members, including Consolidated Freightways, Inc. (Consolidated), UPS, and Ruan Transportation Management Systems (Ruan). ATA characterized these letters as indicating that ABS ''* * * failures are still happening and that other things are going wrong also''. Consolidated's submittal contained a sample listing of maintenance shop orders describing various repairs performed on ABS installed on its vehicles.

NHTSA could not ascertain the statistical prevalence of these incidents in Consolidated's fleet, given the way Consolidated presented its data. Thus, these incidents have only anecdotal value. Nevertheless, the nature and description of these incidents parallels those experienced and recorded during the agency's fleet study. For instance, several incidents cited by Consolidated involved faulty wheel bearings that knocked wheel speed sensors out of adjustment. NHTSA believes that these incidents should not be viewed as ABS failures. Further, other carriers have suggested that the ABS' ability to detect faulty wheel bearing conditions, which fail regardless of whether a vehicle is equipped with ABS, is a safety and maintenance benefit, not a detriment. The majority of other incidents cited by Consolidated involved minor wiring/connector problems that can be readily solved by tractor manufacturers' use of higher quality wiring/connector components or better attention to installation quality control. Carriers may address such situations through traditional warranty and customer complaint channels and, if necessary, through buying vehicles from manufacturers with higher overall product quality ratings.

UPS cited data indicating that the ABS malfunction warning light on 40 percent of a sample of ABS-equipped vehicles received from the factory since 1990 was activated when the vehicles were delivered. UPS did not provide detailed information listing the causes of these malfunction indications. Further, UPS did not explain whether the problems were remedied by simple adjustments of the same sort that are typically done during ''dealer preparation,'' prior to a dealer's delivering a vehicle to the customer. The agency notes that many large fleets such as UPS assume the dealership role when they receive large orders of vehicles directly from the factory. As a result, they assume responsibility for making this type of minor ''make-ready'' adjustments.

UPS also cited high proportions of ABS ''hard repairs or replacements,'' but did not define what constituted a ''hard repair.'' Thus, it is not possible for NHTSA to determine whether some of these might have been considered ''inspections/adjustments'' under the reporting scheme used in the agency fleet study or to put any of these figures in context or interpret them relative to the study's findings.

Ruan indicated that it was having difficulty getting an ABS supplier to respond to its requests for problem-solving help. Ruan listed a series of problems, similar to those noted in the agency's fleet study and cited by other carriers. Ruan's comments were anecdotal in nature and did not include any statistical information that would help portray the extent to which this affected their overall maintenance activities or costs. Nevertheless, all of the ABS suppliers and the major truck manufacturers have indicated, in the discussions they held with the agency on May 3, 4, and 19, 1994[44], that they are committed to providing field service support staff, training, maintenance information, and other help to remedy the problems cited by Ruan and others. NHTSA has repeatedly stated that manufacturers must make service support available to fleets to ensure the success of this rulemaking effort. The agency anticipates that the ABS suppliers and major truck manufacturers will provide this support, given their statements in response to the NPRM that they are prepared to and are now doing so.

In response to ATA's comment about the occurrence of ABS malfunctions due to out of adjustment wheel speed sensors, NHTSA believes that there are several reasons other than faulty ABS design for this phenomenon. Among the most common reasons observed during the agency's fleet study were sensor misadjustment during initial installation; faulty sensor retaining clips; sensor wires being installed with too little slack, resulting in the sensor's being partially pulled out from its mounting block when the vehicle's steering gear or suspension moved; faulty or improperly installed wheel bearings; or failure to readjust the sensor after performing maintenance work in the wheel end area that results in the sensor being knocked out of adjustment. NHTSA emphasizes that the relative frequency of these types of incidents was not high. Five of the two hundred test trucks experienced problems of this type before being, or shortly after being placed in service. In addition, twenty-two of the trucks experienced problems of this type over the two year, 40 million mile test program. With the exception of the faulty clip problem, which has been permanently rectified, all the remaining reasons for the occurrence of this condition are the result of installation quality control lapses, faults with other components, or misinformed maintenance practices. The failures were not caused by faulty sensor design. The agency anticipates that the rate of incidence of even these few events will decrease as quality control efforts and mechanics' awareness and skill in maintaining ABS improves.

[44] Memos about these meetings have been placed in the public docket.

In response to ATA's comment that mechanics will have difficulty installing and maintaining ABS, NHTSA recognizes that mechanic training will be necessary to ensure the long term viability of ABS systems. However, based on the agency's fleet test results, the agency finds that, once trained, mechanics can successfully maintain the systems. The study's results indicate that those fleets committed to providing mechanics the support needed to deal with ABSs can keep the systems operational with relative ease and efficiency and at reasonable cost. ABS suppliers and truck manufacturers have indicated a commitment to providing field service support for the systems. If fleets begin utilizing these services now, mechanics will be capable of maintaining the systems as more ABS-equipped vehicles are introduced into fleet service.

Based on its anecdotal experience with electronic engines, ATA stated that truck manufacturers will not correct the wiring and installation related problems evidenced in the test. Specifically, ATA stated that ''* * * none of the OEM's yet follow the engine manufacturer's guidelines on how wiring/sensors are to be placed and no two of them do it the same way''.

NHTSA believes that ATA's comparison between electronic engines and ABS is not relevant. That organization's comparison fails to portray the extent of problems that were reported to have occurred with electronic engines when they were first introduced in the mid to late 1980's. The lower malfunction rates now being experienced with electronic engines are the result of having worked through initial design and installation problems, a pattern the agency notes is now repeating with ABS, as it becomes more widely installed and used. In addition, ATA's comments about wiring/sensor placement on electronic engines appear to imply that the lack of uniformity in this regard adds complexity to the task of maintaining these engines, rather than implying that truck manufacturers are improperly or inadequately installing engines in vehicles they produce. Unless there is some compelling reason or requirement for manufacturers to install a given component in a single way, the fact that they do it differently is to be expected, given the need and desire for design flexibility. The same flexibility is likely to be true with ABS installations. Electronic engines are in widespread use within the trucking industry today. It is therefore reasonable to infer that truck manufacturers are installing them properly. Based on the data collected in its two fleet studies, the agency believes that the carriers can and will be able to successfully maintain ABS as well.

ATA further stated that the agency's thinking was ''* * * seriously flawed * * *'' because the agency-supported fleet study contained listings of ABS malfunctions that were remedied with only the expenditure of labor and did not require repair or replacement of a component part, with added parts-associated costs. ATA claimed that the report's inclusion of these type malfunctions implied ''* * * some lesser class of failure''. ATA's reference in this regard was to instances in which a false- positive ABS malfunction indication occurred which necessitated an inspection and system reset, with no other problem being found or remedy needed.

NHTSA disagrees. Rather than minimizing the consequences of these occurrences, the inclusion of them in the two reports highlighted the agency's concern about such events. During the tractor portion of the study, they occurred comparatively frequently with 88 of the 200 test tractors experiencing a total of 290 intermittent malfunction warning indications.[45] The situation improved markedly, however, in the later trailer portion of the study. Here, 12 of the 50 test trailers experienced a total of 15 of these false-positive malfunction warnings.[46] The cost impact of these occurrences is noted in the fleet study reports. The reports further noted that such malfunctions accounted for 45 percent of the total in-service maintenance costs for tractors and 35 percent for trailers. Notwithstanding these findings, the fact that a significant reduction in the frequency of these occurrences was noted between the time of the tractor and trailer portions of the study, indicates that the reliability of the components greatly improved.

ATA further implied that these types of failures resulted in lost vehicle productivity, because an affected vehicle would have to be taken out of service to remedy the situation. Contrary to ATA's assertion, none of the test vehicles were pulled out of operational service by the fleets as a result of these malfunction indications. Instead, corrections were made when the vehicle returned to its dispatch point and before it was next dispatched. Further, no dispatch opportunities were missed because of these incidents.

NHTSA notes that the agency's fleet study summarized the cost impact of ''false-positive'' ABS malfunctions. Specifically, these incidents accounted for 45 percent of the total in-service maintenance costs for tractors and 35 percent for trailers. The agency's fleet study report summarized the cost impacts as follows: In the case of tractors, those costs were $0.00021 per mile, while for trailers the figure was $0.00015 per mile. These figures are reasonable, given that it costs $1.38–$1.54 per mile to operate a truck with a driver.[47] Moreover, based on the trailer fleet study, NHTSA expects these costs to decrease significantly over time, since many of them were associated with ECU malfunction warning algorithms that ABS suppliers have since modified to make them less prone to inappropriate activation.

Based on the above considerations, NHTSA concludes that there is no basis for accepting ATA's position that more leadtime beyond that specified in this final rule is needed to successfully implement ABS use in heavy vehicles. NHTSA further concludes that maintenance costs associated with ABS are neither excessive nor unreasonable compared to other maintenance costs and that these costs will not be significantly reduced if the implementation dates of this rule are further delayed.

E. Requirements for Durability, Reliability, and Maintainability

ATA requested that the Standard include requirements to address the durability, reliability, and maintainability of ABSs. ATA was concerned that premature degradation of ABS performance would create a safety risk associated with loss of ABS. Specifically, that organization requested requirements addressing corrosion resistance and electromagnetic susceptibility. It stated that such requirements are ''necessary to assure that the equipment provided to meet the stability and control requirements proposed in this standard can do so repeatedly.[48]''

NHTSA concludes that separate requirements addressing the durability, reliability, and maintainability of ABS are not needed at this time. As detailed above, the ABS fleet evaluation conducted by the agency on 200 tractors and 50 trailers demonstrated that current generation ABSs are durable, reliable, and maintainable. Based on the fleet study and comments by manufacturers, NHTSA concludes that

[45] DOT HS 807–846, page 3–17.

[46] DOT HS 808 059, page 3–14.

[47] *Modern Bulk Transport* Magazine, June 1994, page 84.

[48] NHTSA responds to the issue of the alleged safety risk in the next section.

separate component tests are not necessary.

F. Alleged Safety Problems

ATA contends that current-generation ABSs can fail ''unsafe,'' i.e., ABS malfunction can result in the foundation brakes becoming inoperative. That organization states that this is a ''significant * * * safety problem'' and cites five incidents, two of which occurred during the agency's fleet studies, as corroboration for this suggestion. No other commenter alleged that current-generation ABSs fail in an unsafe manner.

The issue raised by ATA concerns the likelihood of ABS malfunctions that would either reduce brake system performance or render a vehicle's underlying brake system completely inoperative. Based on the data collected during the NHTSA's in-service fleet evaluation of ABS, the agency finds that the likelihood of such occurrences is negligible. Therefore, NHTSA concludes that ATA's concern is unwarranted and unsubstantiated.

During the two-year evaluation of 200 ABS-equipped truck tractors, a total of 421 incidents were recorded involving in-service wear related ABS malfunctions. The vast majority (99.8 percent) of these malfunctions were benign. When the ABS became inoperative, the vehicle reverted to a normally-braked vehicle without ABS protection and remained fully operational until the malfunction was remedied. Similarly, during the two-year evaluation of 50 ABS-equipped semitrailers, 44 such incidents were noted. All (100 percent) were benign.

Only one ABS malfunction incident occurred during the tractor fleet study that resulted in the vehicle having reduced, braking performance. Even this incident, which involved a manufacturing defect in the surface coating of a piston slide valve in the modulator section of a drive-axle-only ABS on one tractor, did not totally compromise the brake performance. When the ABS supplier involved found the cause of this failure, a design change was made to rectify the problem and all the other test units in the fleet study were retrofitted with the improved design. Despite making this change, the ABS supplier involved subsequently chose not to produce this system. The agency emphasizes that this failure did not result in the complete loss of braking power on the vehicle. When the failure occurred, the vehicle experienced reduced braking capability on two of its five axles. The driver was able to maintain control of the vehicle and stop it. Despite the fact that it took longer than usual for the vehicle to stop, there were no adverse consequences as a result of this incident.

As ATA acknowledged in its comments, failures such as this are rare. In this case, the failure was the result of a manufacturing defect, an atypical situation. This incident is not indicative of a general flaw in presently designed ABS systems of the type that would support the contention that ABSs typically fail unsafely.

By comparison, during the same time period, the fleet studies reported 580 incidents involving the tractors, and 170 incidents involving the trailers, in which repairs or replacements were made to brake system components that were not related to the ABS.[49] These malfunctions could have compromised the brake system performance of the affected vehicles. Included among these were repairs or replacements of leaking or faulty relay or quick release valves, leaking or worn brake chambers or air hoses, and other miscellaneous repairs of leaking fittings. The agency notes that, despite their potential gravity, these failures went unheralded, and were simply repaired when detected. Fleet maintenance personnel expressed no special concern about this type of malfunction, treating them as routine occurrences.

NHTSA's fleet study experience parallels the experience found during roadside inspections of heavy vehicles. FHWA's Office of Motor Carriers[50], reports that in 1992, 1,655,668 heavy vehicles were inspected by state and federal officials under the Motor Carrier Safety Assistance Program (MCSAP), and 461,715 (28 percent) of these were placed out-of-service for mechanical defects that were deemed significantly hazardous enough to warrant repairs at that location before the vehicle was operated again. A total of 908,184 out-of-service defects were noted, 54 percent (487,238) of which were brake system related. The majority of these (68 percent) involved out-of-adjustment brakes, but the remainder (157,717) involved defects in either the foundation or pneumatic portions of the system (e.g., cracked brake drums, chafed or worn air hoses, leaking brake chamber diaphragms, etc.), all of which could significantly compromise brake system performance in a severe braking maneuver. These data indicate that, on average, nearly one of every ten in-use heavy vehicles is operating with at least one significant non-adjustment related brake system defect, that, for whatever reason, goes unnoticed and/or is not repaired by fleet personnel, until the condition is discovered in an inspection. The National Transportation Safety Board[51], among others, has concluded that this situation is already serious enough to warrant more ''* * * consistent attention to brake system maintenance.''

Problems associated with the foundation brakes appear to far exceed those caused by a potential malfunction to the ABS. Moreover, neither the frequency of ABS malfunctions nor their consequences, as noted in the fleet study, indicate that adding ABS will worsen this situation. In fact, the agency concludes that adding ABS will significantly contribute to improving it by partially compensating for brake system force imbalances that result from poorly performing or inoperative individual brakes on a vehicle. Ordinarily, under lightly loaded or empty operating conditions, the operative/properly performing brakes attempt to compensate for the reduced braking power absent from the inoperative/poorly performing brake(s). As a result, they over-brake and tend to lock up as increasing levels of brake pressure are applied in an effort to stop the vehicle. Although ABS is not a substitute for proper maintenance, under these conditions, its addition to a vehicle's braking system will be beneficial, since it will prevent lockup.

NHTSA emphasizes that the one isolated incident identified in its fleet study that involved an ABS malfunction that compromised the vehicle's braking performance is markedly different from those described in *PACCAR*. In that case, it was argued that when an ABS failed, the vehicle's underlying brake system was unsafe. The circumstances that gave rise to such concerns are very different from those of today. ABS technology for motor vehicles was very new in the 1970s. In response to aggressive stopping distance requirements and a prohibition against wheel lockup, manufacturers equipped their vehicles with ABSs and extensively redesigned the pneumatic and foundation brake portions of their braking systems. The new foundation brakes in many cases incorporated highly aggressive brake linings. When malfunctions occurred with a vehicle's ABS, the vehicle was left with a much more aggressive and powerful foundation brake system than the brake

[49] DOT HS 808 059, page 3–18; DOT 807 846, page 3–23.

[50] *Annual Report on Program Quality and Effectiveness, Fiscal Year 1992,* U.S. Federal Highway Administration, Office of Motor Carriers, June 1993

[51] *Heavy Vehicle Air Brake Performance,* National Transportation Safety Board Report No. SS–92/01, April, 1992.

systems that had been in general use. Additionally, since the pneumatic portion of the system was different from what had been in use, brake application and release timing on vehicles with malfunctioning ABSs were also different. Thus, for example, if the ABS on an ABS equipped tractor became inoperative, and the tractor was coupled to a non-ABS-equipped trailer, the tractor's brakes still functioned but were extremely incompatible with those of the trailer. The tractor's brakes applied and released differently and were much more aggressive. These differences led to braking force imbalance problems that were very disconcerting to drivers. While situations such as this did not constitute brake failures per se, drivers nevertheless perceived the performance of their vehicles to be very unacceptable and termed these situations brake system failures.

In the 1970s, there were several highly publicized incidents in which radio frequency interference (RFI) problems caused the ABS to cycle continuously during a brake application, thereby greatly diminishing braking power by venting brake system air pressure. The agency notes that manufacturers have completely eliminated the potential for RFI problems since current generation ABSs have been designed with shielded wiring systems and more sophisticated electronics that are better able to recognize spurious signals. No RFI problems have been reported with current-generation ABSs.

The numerous complaints of brake system malfunctions reported by drivers prompted the *PACCAR* court to find that the agency had a responsibility to determine that its regulations do not produce a more dangerous highway environment than that which existed prior to government intervention.

NHTSA has determined that today's final rule requiring heavy vehicles to be equipped with ABSs will result in a significantly safer highway environment than if no regulation were issued. Unlike 20 years ago, the manufacturers will not need to significantly redesign their braking system or use aggressive brake linings to meet stopping distance requirements. Further, ABS is no longer an immature technology. It has undergone 20 more years of development, been installed on tens of thousands of European vehicles pursuant to the 1991 ECE requirement, and been fleet tested extensively in this country by NHTSA and the industry.

NHTSA is aware of no consistent pattern of incidents in this country in which current generation antilock systems have experienced malfunctions like those that concerned the *PACCAR* court. As for the incidents cited by ATA alleging that an ABS malfunction resulted in an unsafe condition, the first one involving a manufacturing defect is discussed above. The second incident involved leaking air in the relay valve portion of a combined relay valve/ABS modulator valve on the steer axle of one truck involved in the agency's fleet study. Strictly speaking, this is not an ABS malfunction, since the air leak that occurred involved the service brake portion of this combined ABS/relay valve. The leakage was caused by oily sludge in the air system, which clogged the relay valve, thereby allowing service brake air pressure to vent, rather than being directed to the brake chamber controlled by that relay valve. The vehicle was equipped with an aftercooler type air cleaner/dryer. Such a leak would result in reduced braking performance, not total loss of the vehicle's brakes. This type of failure is similar to the non ABS related malfunctions that are described above and which were noted in both the fleet study and during roadside MCSAP inspections.

ATA's comments implied that the ABS suppliers' recommended solution for this problem (i.e., that tractors be equipped with desiccant style air cleaners, in order to provide cleaner air), was unacceptable and that to use such cleaner/dryers demonstrates that ABS require a higher level of maintenance. NHTSA believes that it is reasonable to expect that fleets will use desiccant air dryers, or another type of comparably performing air cleaning system, since such systems will enhance the durability and safety of tractor and trailer braking systems by keeping the pneumatic portion of the brake system cleaner. The marketplace appears to have recognized this fact and is responding accordingly. Air cleaning/drying systems are now being installed on more than 80 percent of all new air brake-equipped powered heavy vehicles, with more than 90 percent of these being the desiccant type. Based on current usage, the agency anticipates that air cleaning/drying systems will be in almost universal use within the next few years.

ATA provided few details about the third incident cited in its comments. That incident involved an ABS equipped tractor trailer combination participating in an ATA test program. That organization stated that the vehicle was ''* * * generating consistent stopping distance results when, in the middle of one run, there was a loss of braking which significantly increased the stopping distance.'' ATA offered no explanation or reason for this outcome, except to indicate that ''* * * no indication of an ABS failure by either the tractor or trailer ABS warning lamps * * *'' was noted. Since ABS malfunction was not indicated as the reason for the unexplained increase in stopping distance that occurred during the test of one of its fleet member's trucks, there is no reason to believe that this incident is indicative of an ABS problem.

The fourth incident ATA cited involved a vehicle that was retrofitted with an ABS by the carrier and experienced reduced braking effectiveness during a test stop. Agency discussions with ATA staff and with the ABS supplier indicate that the vehicle was a truck tractor that was tested after the tractor had been equipped with an upgraded ABS. The ABS supplier subsequently concluded that a soldered connection had broken in the ECU and that this may have caused intermittent activation of one of the four modulators controlled by the ECU. Based on its investigation of the ECU in question, and its knowledge of how the ABS was configured, the ABS supplier believed that the truck had experienced a reduction in braking, but not a total loss of braking power. NHTSA emphasizes that this incident is atypical and not indicative of normal ABS performance, since the fleet study identified no similar incident.

The fifth and final incident described by ATA is reminiscent of the ''phantom failures'' that were reported to have occurred with early 1970's vintage ABSs. The causes of most of those ''failures'' were neither fully explained nor linked to ABS flaws. In this incident, the accident report simply claimed that ''* * * the vehicle would not stop.'' ATA's account of this incident indicates that no problems were found in either the tractor's or the trailer's braking system after this incident.

NHTSA notes that other factors such as slippery road conditions or improperly adjusted brakes are just as likely as ABS malfunction to have caused the driver to believe that the vehicle would not stop or that it was stopping too slowly. Without additional information, it is not possible for the agency to assess the cause of this incident, or respond to the implication that the incident is somehow indicative of an inherent ABS flaw.

Contrary to ATA's allegations that existing ABSs have significant safety problems, most commenters, including vehicle and brake manufacturers, appear to agree with NHTSA's assessment that current generation ABSs are safe and

reliable. Unlike the 1970's when several vehicle and brake manufacturers objected to the rulemaking, and ATA, TEBDA, and PACCAR challenged the antilock standard in court, comments to the September 1993 NPRM indicate that vehicle and brake manufacturers now generally believe that the proposal was appropriate and today's antilock systems provide significant safety benefits. Along with the safety advocacy groups, HDBMC, AAMA, GM, Rockwell WABCO, Midland-Grau, and Bendix generally supported the agency's September 1993 proposal to require heavy vehicles to be equipped with an antilock brake system. No vehicle or brake manufacturer opposed the rulemaking, aside from objecting to details in the proposal. These commenters stated that ABS will improve vehicle safety by providing improved braking and vehicle stability and control. Specifically, such systems will prevent wheel lockup, thereby preventing jackknifing and other loss of control accidents. Neither the vehicle nor brake manufacturers expressed concern that today's ABSs would fail in such a way as to compromise basic braking performance, as ATA alleges.

Strait-Stop stated that computerized ABSs will not prevent brake fade since these systems do not avoid or minimize heat build up. As a result, it alleged that computerized ABSs will not avert accidents related to runaway trucks. In contrast, it stated that its system results in cooler and therefore better brakes. The agency is not in a position to respond to Strait-Stop's claim that its product minimizes brake heat build up. Strait-Stop did not submit any data to substantiate its claim and the agency has no data of its own on this issue.

NHTSA emphasizes that Strait-Stop has not suggested that an ABS will contribute to brake heat build-up, but merely stated that it will not reduce brake heating. Reducing brake heating, and thus the potential for brake fade, is not one of the design goals of an ABS, nor is it the focus of this rulemaking. ABS is intended to prevent wheel lockup. Brake fade is most typically caused by one or more of the brakes on a vehicle being out of adjustment, thereby causing the other properly adjusted brakes to have to absorb a disproportionate share of the kinetic energy that needs to be dissipated when a fully loaded heavy truck attempts to descend a grade. In this situation, the properly adjusted brakes are overworked, causing them to overheat and fade. This in turn results in a loss of braking power. Equipping a vehicle with either ABS or the Strait-Stop product will not rectify brake maladjustment(s). Likewise, equipping a vehicle with ABS will not decrease the motor carriers' existing need to properly adjust their vehicles' brakes in order to avoid brake overheating and fade on downgrades.

G. ABS Malfunction Indicator Lamps

Since the discussion on ABS malfunction indicator lamps is lengthy, NHTSA first summarizes its decisions regarding this subject and then addresses the details of each decision. In today's final rule, NHTSA is amending Standard No. 105 and Standard No. 121 to require all powered heavy vehicles to be equipped with an in-cab lamp for indicating a malfunction of the ABS on that vehicle. In addition, the final rule requires truck tractors and other trucks that are equipped to tow trailer(s) to be equipped with a second in-cab lamp. The purpose of the second lamp is to indicate malfunctions in the trailer ABS. Finally, trailers manufactured during an interim eight-year period are required to be equipped with an external malfunction indicator lamp.

Each of these ABS malfunction indicator lamps is required to activate whenever there is a malfunction affecting the generation or transmission of response or control signals in the ABS that it is monitoring. In addition, the lamp is required to store information about a malfunction in that ABS until the next start up. Vehicle manufacturers are prohibited from equipping their vehicles with a device to disable any malfunction indicator lamp.

NHTSA also has amended the failed ABS system requirements to prohibit any change in brake timing in the event of an ABS malfunction that affects the generation or transmission of response or control signals.

1. Number and Location; Duration of Trailer Requirement

Standard No. 121 now requires that each tractor, truck, and bus be equipped with an in-cab lamp that indicates malfunctioning in the ABS of that vehicle. In the NPRM, the agency proposed that truck tractors be equipped with a second in-cab lamp that would indicate malfunctions in the trailer ABS. The agency proposed further that the in-cab lamps be required to be ''mounted in front of and in clear view of the driver.'' The agency noted that this requirement is essentially the same as the current requirements in Standard No. 105 and Standard No. 121. These existing provisions require a continuous message to a driver when the ignition is in the ''on'' or ''run'' position.

NHTSA has decided to adopt its proposal that each truck tractor and single unit vehicle be equipped with an in-cab lamp to indicate malfunctions in the ABS of that vehicle. The agency believes that it is essential that a driver be notified about an ABS malfunction, so that the problem can be corrected. The commenters, including vehicle manufacturers and brake manufacturers, generally supported the proposal for an in-cab malfunction indicator. Only Strait-Stop opposed this proposal, stating that it would necessitate the use of an electrical ABS.

NHTSA proposed to require that each trailer equipped with ABS be capable of sending a signal about a malfunction in the trailer ABS to a towing vehicle, and that all powered towing vehicles equipped with ABS have an in-cab lamp that would be activated when the towing vehicle receives signals indicating malfunctions in a trailer ABS. In addition, the agency proposed to require the installation of an external ABS malfunction lamp on trailers and dollies manufactured during the eight-year period after trailers are first required to be equipped with ABS.[52] The agency believed that the external lamp would not be necessary on new trailers manufactured after the end of that period because, by that time, a significant majority of tractors in the heavy vehicle fleet, which would be responsible for the vast majority of miles driven by tractors, would be manufactured in compliance with the requirement for an in-cab lamp capable of receiving a malfunction signal from a trailer.

Commenters offered mixed views about requiring each towing vehicle to have a separate in-cab lamp to indicate a malfunction in a trailer ABS. Bosch, Midland-Grau and several other commenters supported the agency's proposal for requiring tractors to have two separate in-cab ABS malfunction indicator lamps: one indicating malfunctions in the tractor ABS, and the other, malfunctions in the trailer ABS. They stated that a driver would be able to respond to and possibly alter braking actions in the event of an ABS malfunction during emergency situations if the driver knew whether the malfunction was in the tractor ABS or in the trailer ABS. Midland-Grau strongly opposed having a single indicator, claiming that the tractor lamp sequence would camouflage the situation in which the trailer ABS lacked power. Midland-Grau further

[52] The eight-year time period for this interim proposal was intended to represent the average lifespan of a truck tractor.

stated that a single lamp would make it difficult to identify which vehicle had a malfunction without using separate diagnostic equipment.

ATA, Allied Signal and fleet operators opposed the proposal that tractors have a separate in-cab malfunction lamp for the trailer ABS, claiming that these indicators were ''neither needed nor practicable at this time.'' AAMA supported a single in-cab malfunction lamp for each tractor to indicate an ABS malfunction on either the tractor or the trailer. It believed that there is no safety need for the driver to know immediately whether the ABS malfunction is in the tractor or the trailer. While AAMA stated that separate indicators would cause needless complexity to the instrument panel, it did not state that such a requirement would be impracticable.

After reviewing the comments and other available information, NHTSA has decided to require each powered towing vehicle to have one in-cab malfunction lamp for the towing vehicle's ABS and another in-cab lamp for the trailer ABS. The agency believes that the ABS trailer fleet study final report [53] indicated that drivers are more likely to observe an in-cab malfunction indicator for a trailer than a malfunction indicator lamp on the front of the trailer, particularly if the trailer ABS is powered through the stoplamp circuit. This is so because the stoplamp circuit only activates when the brake is applied, a time when the driver will be paying more attention to the traffic conditions ahead. The report also indicated that ABS malfunctions were present on some vehicles for a long time, but were not reported, primarily because the drivers ''spent very little time looking in their mirrors while stopping'' and did not notice that the trailer ABS malfunction lamp was lighted.

NHTSA does not agree with AAMA's recommendation for a single in-cab malfunction lamp for both the tractor and trailer antilock systems. As Midland-Grau stated, a driver would not be able to identify which vehicle in a combination was experiencing an ABS malfunction if only a single in-cab malfunction indicator lamp were required, since a single in-cab lamp would result in some trailer ABS malfunctions being camouflaged. Further, notwithstanding comments by AAMA and ATA that separate in-cab lamps add unnecessary complexity, combination vehicles in Europe have been equipped with such indicators for several years.

NHTSA believes that it is appropriate also to require an external malfunction lamp on trailers and dollies for the eight-year period during which some non-ABS-equipped tractors are likely to be towing ABS-equipped trailers. The external lamp will indicate trailer ABS malfunctions to the driver of a non-ABS tractor, and will also assist Federal or State inspectors in determining the operational status of a trailer's antilock system. Nevertheless, notwithstanding Midland-Grau's recommendation to require the external trailer lamp permanently, the agency has decided not to do so, since after the transition period, the vast majority of trailer malfunctions would be expected to be indicated in-cab.

In response to the SNPRM, TTMA stated that instead of locating the trailer lamp on the ''roadside nose of trailer, it should be located near the electronic control unit where the driver can check it during his walk-around inspection of the tractor trailer combination.'' It stated that some ABS may require that the trailer be moved at a low speed (less than 5 mph) to activate the check function (i.e., some antilock systems check the status of wheel speed sensors by looking for proper signals as the vehicle goes from 0 to 8 mph). TTMA also commented that it is not practical to mount an ABS malfunction lamp on converter dollies in a location in which the lamp will be visible in a driver's rearview mirror, yet not be susceptible to damage.

While NHTSA recognizes the possibility of some susceptibility to damage, placing the external malfunction lamp in a different location on dollies would largely negate its benefits, because it would not be visible to the driver. For that reason, the agency has decided that the requirement will apply to dollies as well as other trailers.

NHTSA is revising Standard No. 101, *Controls and Displays,* to clarify that the malfunction indicator lamp must be labeled with the words ''ABS'' or ''Antilock'' for trucks and truck tractors with air brakes. The agency notes that Table 2 in Standard No. 101 currently refers to Standard No. 105, but makes no reference to Standard No. 121. For the in-cab trailer ABS malfunction indicator, NHTSA is adopting the identification of controls in Standard No. 101 (i.e., ''Trailer ABS'' or ''Trailer Antilock'') as proposed in the NPRM.

2. Conditions for Activation

Before this amendment, S5.1.6 of Standard No. 121 required the ABS warning signal to activate ''in the event of total electrical failure.'' In the NPRM, NHTSA proposed that the malfunction indicator lamp activate ''in the event of any malfunction in the system.'' The agency tentatively concluded that a driver needs to be informed about any malfunction because every ABS malfunction could affect the way in which drivers respond to a safety problem. The agency invited comments about when and in what situations the malfunction lamp should be required to activate.

Fleet operators, AAMA, Rockwell WABCO, HDBMC, and Midland-Grau stated that the proposal to require the ABS malfunction lamp to activate upon ''any'' malfunction in the antilock system is impracticable, unreasonably costly, and overly broad. These commenters believed that it is only practicable and realistic for current technology to detect certain types of electrical malfunctions, namely those involving electrical discontinuities or electronic malfunctions, not mechanical failures of ABS components. AAMA and HDBMC stated that it would be unreasonably costly to provide continuous monitoring of all ABS malfunctions because many possible malfunctions are temporary in nature or may not directly affect ABS performance.

Commenters suggested various ways to narrow the requirement. Rockwell WABCO recommended that the ABS malfunction indicator activate whenever a ''malfunction occurs affecting the generation and/or transmission of response and control signals.'' It stated that this should be a minimum requirement applicable to electrical faults in sensors, control valves and associated wiring. ATA, Allied Signal and fleet operators stated that a more practicable requirement for the ABS malfunction indicator would be to require activation in the event of (1) failure to sense angular rotation, (2) failure of the controlling device to generate controlling output signals, and (3) failure to transmit controlling signals to devices that modulate brake actuating forces.

Based on the comments and other available information, NHTSA has decided to require ABS malfunction indicator lamps to activate for any malfunction that affects the generation or transmission of response or control signals in the vehicle's antilock brake system. The requirement does not apply to malfunctions such as sticking solenoid valves, small air leaks in the solenoid valve, or mechanical binding of a valve. The agency agrees with the commenters' arguments that the malfunction indicator requirement

[53] ''An In-Service Evaluation of the Performance, Reliability, Maintainability, and Durability of Antilock Braking Systems for Semitrailers,'' (October 1993),

should be modified because requiring activation in the case of ''any'' malfunction might have been impracticable. Under the modified requirement, only those malfunctions that are directly related to the antilock brake system must be indicated. Applying the indicator requirement to the ''generation'' of response and control signals serves to cover the components in the ABS that produce these signals. These components include wheel speed sensors which produce response signals for the control unit, and the control unit which produces control signals for input into the valves that modulate brake pressure. Applying the indicator requirement to the ''transmission'' of response and control signals serves to cover the components in the ABS through which the generated signals are transmitted. These components include wiring, connectors, belts used in mechanical systems, and all components through which a generated signal can be transmitted.

NHTSA notes that the generation and transmission of signals in ABSs are typically electrical in nature. Nevertheless, the agency has decided not to include the term ''electrical'' in the requirement so that the malfunction indicator requirements are applicable to non-electrical, i.e., mechanical, ABSs as well. Accordingly, mechanical ABSs will have to comply with the malfunction indicator requirements.

3. Activation Protocol for Malfunction Indicators

In the NPRM, NHTSA proposed standardizing the ABS malfunction indicator lamp system so that trucks and trailers would have the same activation pattern [54] and same colored lamps to indicate an ABS malfunction. The agency believed that such a common indicator pattern would reduce ambiguity and confusion and expedite Federal and state inspections. The agency proposed that each ABS malfunction indicator lamp be yellow and activate when a problem exists but not activate when the system is functioning properly. In addition, the proposal would have required that whenever the ABS receives electrical power, the indicator lamp would provide a continuous visible indication until a function check of the ABS was completed. Under the proposal, the check function would have to be completed and the lamp extinguished (assuming that there was no underlying condition that warranted activating the lamp) before the vehicle was driven.

Rockwell WABCO stated that both the existing format in which a continuous signal is activated upon the ABS's total electrical failure and the proposed format for the ABS malfunction lamp are acceptable approaches. That company strongly recommended that the agency adopt a single approach for all heavy vehicles. Midland-Grau accepted the agency's proposal to require the lamp to extinguish before the vehicle is driven, even though it was concerned about an incomplete sensor check function.

AAMA stated that the agency ''should allow the ABS malfunction indicator to be either illuminated or extinguished during low speed drive away after key-on.'' That organization requested that the agency affirm its view that the proposed language did not require the ABS indicator to be either illuminated or extinguished during low-speed driveaway after key-on. That organization was concerned that the proposal might prohibit certain existing systems that have an illuminated indicator until the vehicle reaches a speed of five to seven mph after key-on.

Bosch recommended that an ''on-off-on'' blink sequence be used to indicate an ABS malfunction when the ignition is turned to the ''on'' or ''run'' position. It believed that this pattern would inform a relief driver of the presence of a malfunction and would assist Federal and State inspectors in determining the operational status of the vehicle's ABS.

After reviewing the comments and other available information, NHTSA has decided to require the malfunction indicator lamp to activate when a problem exists and not activate when the system is functioning properly. Under this requirement, the indicator lamp is required to provide a continuous indication until a function check of the ABS is completed. The agency believes that this ABS malfunction lamp format, together with the requirement that the system stores malfunctions until the next key-on, is necessary to enable Federal and State inspectors to determine the operational status of an ABS without moving the vehicle. Elsewhere in today's **Federal Register**, the FHWA's Office of Motor Carrier Standards is issuing a notice explaining its intent to issue a companion regulation requiring that the ABSs on heavy vehicles be operational.

NHTSA further notes that all vehicles will be required to have a continuously burning lamp in response to a malfunction. Accordingly, this requirement will standardize the activation format for all vehicles. Under that format, the ABS malfunction lamp extinguishes after a function check, and before the vehicle is driven. Since light vehicle ABSs currently use this format, the agency believes that heavy vehicle drivers will find it easier to understand the heavy vehicle ABS malfunction indicator if the same format is used. Furthermore, the adopted format is also consistent with the ECE requirement and therefore is consistent with the goal of international harmonization.

NHTSA has concluded that the ''on-off-on'' blink sequence recommended by Bosch to indicate a malfunction during vehicle start-up would place an unwarranted burden on the driver, who would have to pay close attention to the malfunction lamp to observe the blink sequence during vehicle start-up and drive-away. Therefore, the agency rejects this recommendation.

4. Signal Storage

In the NPRM, NHTSA proposed that the ABS indicator lamp system be capable of storing information regarding any malfunction that existed when the ignition was last turned to the ''off'' position. For instance, if the wheel speed sensors were malfunctioning before the vehicle was turned ''off,'' the system would be required to store a signal for that malfunction. As a result, the malfunction would be displayed when the vehicle was turned ''on'' again, as part of the function check.

AAMA, Midland-Grau, Rockwell WABCO and several other commenters opposed the proposal to require the storage of ABS malfunctions that exist when the ignition is turned to the ''off'' position. AAMA stated that it is not appropriate to mandate this capability, claiming that many error messages are spurious or represent transient conditions, and therefore do not warrant automatic reactivation the next time the key is turned to the ''on'' position. It further stated that if a malfunction is non-transient, then the warning will reappear and that therefore it need not be stored. Midland-Grau believed that the proposal was design restrictive and would eliminate systems that do not have non-volatile memory (i.e., a system that remembers malfunctions when the system is shut down). Rockwell WABCO stated that this area does not need to be regulated, even though it acknowledged that all current electronic ABS have non-volatile memories to store and communicate current and past malfunctions. After reviewing the comments and other available information, NHTSA has decided that the malfunction storage requirement is necessary to ensure that relief drivers

[54] By pattern, the agency meant a common way that an indicator would react in response to a malfunction. Specifically, upon a failure, the indicator would activate and provide a continuous yellow signal.

and Federal and State inspectors are advised about any malfunctions in a vehicle's ABS without having to move the vehicle. This capability is important since inspectors would need to determine the operational status of the vehicle's ABS without moving the vehicle. Moreover, this capability is necessary since the agency has decided to require that the ABS malfunction indicator lamp extinguish before the vehicle is driven, provided that there is no existing ABS malfunction that warrants activation of the indicator.

NHTSA disagrees with AAMA's claim that nontransient malfunctions will always reappear at the next key-on and therefore do not need to be ''stored.'' A nontransient malfunction of the wheel sensor, which involves the generation of a wheel speed signal, is typically detected only when the vehicle is moving at a speed exceeding 8 to 10 mph, since a signal is only produced when the wheel rotates at some threshold wheel speed. Therefore, no signal is generated and hence no sensor malfunction is indicated if the vehicle is stationary. As explained in the NPRM and in the previous paragraph, one reason for requiring malfunctions to be stored is to ensure that preexisting malfunctions involving sensors are indicated before the vehicle is driven.

5. Disabling Switch

NHTSA, in response to a rulemaking petition from ATA, proposed in a separate NPRM to allow a switch that a driver could use to turn ''off'' and ''on'' the in-cab malfunction lamp for a vehicle's ABS. (58 FR 50732, September 28, 1993.)

Advocates and vehicle and brake manufacturers strongly opposed the proposal. AAMA, Bosch, and Midland-Grau believed that such a switch would encourage drivers to disable the malfunction indicator of an important safety system, and thus set an undesirable precedent for allowing mechanisms that would disable other vehicle safety systems. These commenters stated that a constant reminder of a malfunction is the best way to inform drivers of a malfunction condition and encourage them to seek a repair of an ABS malfunction. In addition, they claimed that if the switch were used to turn off the malfunction lamp and the ignition remained ''on,'' a relief driver would not necessarily be informed of an ABS malfunction unless the relief driver used the switch to reactivate the malfunction indicator.

ATA, Allied Signal, and fleet operators supported the proposal to allow an optional switch for turning the ABS malfunction indicator off, claiming it would enable the driver to prevent the malfunction indicator from being a distraction, especially at night when the amber light can appear to be excessively bright.

NHTSA recognizes that some drivers view the malfunction indicator as an annoyance and thus might favor having a switch to turn it off. The agency is also aware of isolated cases in the truck tractor ABS fleet study in which malfunction indicators were disabled or taped over. Nevertheless, NHTSA agrees with AAMA and the brake manufacturers that permitting a disabling switch is inconsistent with motor vehicle safety. The information about a malfunction of an important safety system such as an antilock brake system should be communicated to the driver and should not be disregarded. Allowing drivers to turn off the ABS malfunction indicator would reduce the likelihood that a malfunction would be reported and corrected in a timely fashion. Use of such a switch might mask a potential safety problem, since an ABS malfunction could go undetected by the driver, if the disabling switch were activated. Allowing such a switch would also implicitly condone actions by some drivers that disable the malfunction indicator, since the agency would be allowing a disabling switch based on the argument that without a disabling switch drivers would defeat the switch. Moreover, allowing a malfunction indicator to be turned off would be inconsistent with Standard No. 101. Based on the above considerations, NHTSA has decided not to permit an optional disabling switch.

NHTSA notes that ATA's concern about driver distraction may be reduced if the antilock malfunction indicator is dimmed at night. In specifying requirements for the illumination of various controls and displays including the ABS malfunction indicator, Section S5.3.4(b) of Standard No. 101 states that

> The means for providing the required visibility may be adjustable manually or automatically, except that the telltales and identification for brakes, highbeams, turn signals, and safety belts may not be adjustable under any driving condition to a level that is invisible.

Under this provision, an ABS malfunction lamp may be manually or automatically dimmed, provided that it is still visible to the driver. Nevertheless, the agency emphasizes that a malfunction indicator that is not visible to the driver would be prohibited.

6. ABS Failed System Requirements

Section S5.5.1 of Standard No. 121 currently requires that the application and release times of the service brakes not increase when there is an electrical failure in the ABS. In the NPRM, NHTSA proposed removing the word ''electrical.'' That change would prohibit any malfunction in an ABS, whether or not electrical, from increasing the application and release times of the service brakes. The change would also make the requirement applicable to nonelectronic ABSs.

ATA stated that the proposed requirement in Standard No. 121 for failed ABSs would be difficult to meet. It further stated that the failed ABS requirement for heavy vehicles in Standard No. 105 is more reasonable than the proposed requirements in Standard No. 121,[55] since some types of ABS malfunctions in a vehicle with air brakes, such as a leaky valve, could result in an increase in service brake actuation and release times.

NHTSA acknowledges that the proposed failed ABS requirement for heavy vehicles in Standard No. 121 is more stringent than the requirement in Standard No. 105. The agency could resolve this difference by making Standard No. 105 more stringent by deleting the word ''electrical'' or by amending Standard No. 121 to prohibit any change in brake timing in the event of certain, but not all, ABS malfunctions.

After reviewing the alternatives, NHTSA has decided to revise Standard No. 121 to prohibit any change in brake timing in the event of those ABS malfunctions that affect the generation or transmission of response or control signals. The agency believes that this modification will ensure that the brake system reverts to normal braking without antilock control, in the event of such a malfunction in the antilock system. NHTSA notes that this modification parallels the change the agency made to the requirements governing the types of malfunctions that must be indicated by the malfunction lamp. This requirement will not apply to mechanical ABS malfunctions such as sticky valves. While mechanical malfunctions do happen, electrical malfunctions are far more prevalent. The agency believes that simply deleting the word ''electrical'' would have made the requirement too broad and potentially impracticable, while

[55] Section S5.5.2 of Standard No. 105 requires that in the event of any failure in the antilock system, the vehicle must be capable of meeting the stopping distance requirement of 613 feet, as specified for a service brake system partial failure.

leaving the word in without additional changes would make the requirement too narrow.

NHTSA notes that Standard No. 105's stringency cannot be increased in this final rule because the agency did not propose amending that Standard's failed ABS requirements. Nevertheless, the agency may conduct future rulemaking to make Standard No. 105's ABS failed systems requirements more consistent with the requirements in Standard No. 121 and proposed Standard No. 135.

H. Power Source

Section S5.5.2 currently permits the power source for trailers equipped with ABSs to be either the stop lamp circuit or a separate electrical circuit specifically provided to power the trailer ABS. In the NPRM, NHTSA proposed that ABSs be required to receive full-time power through a separate circuit, and to have backup powering through the stop lamp circuit. The agency tentatively decided that a full-time power source would be necessary to ensure that adequate power for the trailer's ABS is available, particularly for doubles and triples, and that a driver is aware of any ABS malfunction related to the trailer, since the stop lamp circuit is powered only when brakes are applied.

The commenters had mixed views about whether full-time power for trailer ABSs should be provided through a separate circuit. AAMA, ABS suppliers, TTMA, and Advocates believed that the agency's proposed approach is appropriate and that the industry will be able to develop appropriate voluntary standards through the SAE for electrical circuits or connectors. Upon standardizing with one approach, uniformity would be ensured. Midland-Grau stated that it ''strongly supports'' the agency's proposal for full-time powering for the following reasons:

1. The antilock systems being produced today are very reliable, but only as reliable as the power supply circuit which is supplying power to the antilock system.

2. Having continuous power to the trailer ABS will allow for full-time diagnostics continually updating the driver of the status of the trailer antilock system, and not just during braking.

3. A separate electrical circuit is needed to have adequate and reliable power available should all the solenoids in the control valves be activated in double and triple combinations.

4. To provide incentive to the industry (SAE, TTMA, TMC, etc.) to develop a ''common'' circuit for ABS on trailers, which may or may not ultimately involve a separate connector.

5. To facilitate the use of higher capability trailer antilock systems, along with other electronic systems such as low air pressure, height sensing, and electronic braking.

Midland-Grau further stated that ''Because of cost, most fleets would prefer to power through the stop lamp switch not realizing that they are asking for the ABS reliability problems of the late 1970s to reappear again.''

ATA and fleet operators opposed requiring full-time power for trailer ABSs. ATA stated that this requirement is an untested, unnecessary, and costly burden that NHTSA did not justify on a safety basis. ATA is concerned that a full-time power requirement would result in significant maintenance and reliability problems, basing its claims on the agency's fleet study. ATA also stated that requiring full-time power is premature since the industry is working on multiplexing systems,[56] which, when fully developed and proven, would provide many opportunities for powering accessories on trailers.

In response to the SNPRM, ATA elaborated on its initial comments opposing a requirement that trailer ABSs be electrically powered using a separate electrical circuit. ATA alleged that the requirement could not be justified and that no practicable method had been demonstrated for providing this separate source of power. Specifically, it stated that NHTSA's fleet study did not identify a single electrical powering system that performed in a reliable manner in the test. ATA further stated that it is impermissible for the agency to require a separate dedicated circuit after it had permitted stop signal powering as an option. (57 FR 30911, July 13, 1992.) It claimed that the agency has not justified what it terms a ''proposed rescission of the prior rulemaking decision to allow power through the stop lamp circuit.''

NHTSA has decided to adopt the proposed full-time power requirement for trailer ABSs. The wording of the standard has also been amended to clarify that towing vehicles must have a corresponding separate circuit. By requiring a separate circuit, the agency will ensure the strongest possible source of electrical power from the tractor to ensure the functioning of all the ECUs and modulators that are employed in the antilock brake system, or systems, on single trailers, or multiple trailers and converter dollies in multitrailer combinations. Another important safety justification is that a separate circuit will ensure a continuous malfunction indication whenever a malfunction exists. As noted above, an ABS malfunction indicator powered by a stop lamp circuit would function only when the driver is applying the brakes. During braking, a driver would most likely be concentrating on traffic conditions ahead, and would therefore be less likely to see an ABS malfunction indication on the trailer. However, a driver is more likely to be aware of a trailer ABS malfunction, if the tractor has an in-cab malfunction indicator for the trailer ABS, since a continuous malfunction indication could be more noticeable.

Typically, shared circuits that power other electrical devices besides the trailer ABS, such as stoplamps, cannot provide as much electrical power to the ABS as can a separate circuit dedicated to powering only the trailer ABS. This was demonstrated during the agency's trailer fleet study[57] in which all the alternative approaches that utilized a separate dedicated electrical circuit to power the ABS, (except one approach involving the trailer battery approach, which has been abandoned by the ABS supplier that suggested it), provided higher voltage levels than did the shared stoplamp circuit system approach. The data shown in the table cited in Footnote 33[58] were for single semitrailer combinations. Voltage levels would have been even lower had doubles or triples combinations been part of the fleet study.

If electrical voltage levels drop below 7–10 volts, an ECU cannot function properly and will automatically shut down. The system will automatically reset itself if sufficient power is once again provided. However, during periods of low power, the ABS will not operate. The likelihood of power dropping below the point at which the trailer ABS shuts down increases as the number of additional stoplamps, or other power draining devices, such as ABS ECUs and modulators, increases.

Trailer ABS systems on a single semitrailer typically consist of one ECU and one or two modulators. A two-trailer combination (i.e., a double) would utilize 3 ECUs and 3 to 6 modulators, while a three-trailer combination (i.e., a triple) would utilize 5 ECUs and 5 to 10 modulators. While the electrical current draw of ECUs is minimal, modulators typically draw 2–2.5 amps each. Depending on a system's configuration, the ABS on a single semitrailer could draw 2–5 amps, that

[56] Multiplexing is the process of combining several measurements for transmission over the same signal path.

[57] Reference Table 3.4, DOT Report No. HS 808 059.

[58] DOT HS 808 059, Table 3.4, page 3–27.

on a doubles combination could draw 6–15 amps, and that on a triple combination 10–25 amps. If a stoplamp circuit of the existing 7-pin cable connector/plug system were used to power the trailer ABS, the current draw of the stop lamp bulbs, added to that of the ABS, would create an overall current draw that could exceed 45 amps on a triples combination. Under such levels of current draw, there is a greatly increased likelihood that the ABS will no longer function on the second and third trailers in a triples combination.

At present, standard industry practice throughout the trucking industry is to provide electrical power for a trailer from the tractor through a cable and connector/plug assembly, the SAE J560 connector. This connector uses a 7-pin configuration, with six power circuits and one common ground. All six power pins are now utilized for one electrical function or another.

Although never directly stated, ATA's comments appear to be based on the premise that NHTSA's proposed requirement for a *separate circuit* is a directive that a *second separate tractor-to-trailer cable and connector/plug system* be used. Such a requirement would preclude the continued exclusive use of a single SAE J560 connector. However, the agency wishes to clarify that a second separate connector is not required. Accordingly, the agency has not specified a set method for providing the separate circuit. The agency intentionally left this choice to the industry in an effort to provide design latitude.

NHTSA notes that there are many alternative ways of providing a separate circuit to power ABS. During the trailer fleet study, the agency evaluated several alternative methods of providing electrical power. To provide a baseline for comparisons with other approaches, the stoplamp circuit of the standard tractor-to-trailer electrical cable/connector supplied power to the trailer ABSs for two of the five participating fleets. For these systems, the ABS received power every time the stoplamps were activated, but received no power when the brakes were not being applied.

In addition, NHTSA evaluated three distinct methods of supplying a constant source of electrical power to trailer ABSs. First, one fleet used a 15-pin ''halo'' cable/connector/plug system (supplied by the Cole Hersee Company,[59] which completely replaced the SAE J560 cable/connector/plug. Two of the additional 8 pins (one for power, the other for a separate ground as well) were used to power the trailer ABSs. Second, another fleet used a second 6-pin connector/plug/cable, with backup power provided by the stoplamp circuit of the SAE J560 connector. Third, another fleet used an auxiliary battery which was mounted on the semitrailer and was charged by electrical power from the semitrailer's refrigeration unit.

NHTSA is studying the SAE J560 stoplamp-circuit-powered approach further, using ABS-equipped LCV combinations (known as Rocky Mountain doubles and triples). This study is part of the joint NHTSA/FHWA operational test program being conducted in response to Section 4007(d) of ISTEA. The basis for wiring these combinations in this manner was not, as ATA suggested in its comments, a decision by the agency that ''* * * there is no safety need for separate new requirements related to the ABSs electrical system.'' Instead, the agency's decision was based on the need to determine the ability of the redundant stoplamp-circuit to provide sufficient electrical power to operate the ABSs on all the trailers and dollies of a triples combination. In this test, the stoplamp circuit was wired in parallel with additional heavy duty wiring to the ABS, in an effort to maximize the possibility of success.

NHTSA evaluated two aspects of the separate connector powering for trailer ABS in its in-service fleet studies: (1) the ability of each approach to provide a robust source of electrical power, through a separate dedicated circuit, to the trailer ABS, and; (2) the durability, reliability, and maintainability of these secondary powering approaches as well as the incremental costs associated with using any of those approaches. With respect to the first point, the data contained in Table 3.4, DOT Report No. HS 808 059, page 3–27 indicate that all but one of the separate connector/separate circuit approaches provided higher voltage levels than did the shared stoplamp-circuit-system approach. The exception was the battery approach which, as previously stated, has been abandoned. NHTSA has concluded that these data justify the requirement for separate circuit powering of ABS.

NHTSA has also concluded that providing a separate source of power to trailers can be done practicably and economically. Regardless of whether a separate circuit or a shared circuit is used to power trailer ABS, ATA and other truck users have stated their preference for only one electrical cable/connector/plug system between tractors and trailers. The principal reason for wanting only one cable/connector is cost. All else being equal, utilizing two connectors would double the truck-user's replacement maintenance costs for these items, regardless of (and separate from) any costs associated with maintaining trailer ABSs by themselves. UPS commented that, on average, it already replaces two entire SAE J560 cable/connectors for each of their 15,791 vehicles each year. TNT Red Star Express fared somewhat better in this regard, reporting that it replaces 1.2 of these connectors per vehicle per year.

In comparison, in NHTSA's fleet study of electrical system maintenance, the agency found that 0.4 SAE J560 cable/connector repairs/replacements were made per vehicle per year. This is a level substantially better than either UPS or TNT reported but, nevertheless twice the repair/replacement rate noted for ABS components (0.2 per vehicle per year). Since the cost of these cables/connectors is less than ABS component part costs, repair/replacement costs were less for these SAE J560 cable/connectors ($0.0002 per mile) than the overall repair replacement costs for all the ABS components ($0.00044 per mile).

ATA commented that the overall cost of ABS-related maintenance would be on the order of 50 percent higher than indicated in the fleet study (i.e., $0.0002 + $0.00044 = $0.00064 per mile), if trailer ABS use necessitated a second tractor-to- trailer cable/connector/plug.

As NHTSA has stated repeatedly, although today's final rule requires a separate *circuit*, it in no way mandates that a second *cable/connector be used. The agency has left the decision to the industry about what approach to use. Moreover, even if the industry decides to use two connectors temporarily or permanently, the agency believes the associated incremental maintenance costs associated with doing so are reasonable.*

NHTSA expects that one of four approaches will be chosen with respect to trailer ABS powering. First, the industry, through the SAE committees that are now considering this issue, could voluntarily settle on a new pin/circuit assignment scheme for the existing SAE J560 connector, thereby ''freeing up'' a dedicated power circuit for the ABS. This approach could involve multiplexing of some signals. Second, the industry could develop and standardize a variant of the SAE J560 connector that is compatible with the existing connector but which provides additional pins/circuits. Third, the industry could develop a totally new connector that will handle present and future tractor-to-trailer powering and signalling/communication needs, and a transition could be made away from the

[59] Herein after referred to as the 15-pin plug.

SAE J560 connector to this new connector. Fourth, the industry could decide to use a separate connector in addition to the existing SAE J560 connector.

NHTSA is aware that the industry, through the SAE and the ATA's Maintenance Council, is actively considering the first three of these alternatives and that prototypes and, in some cases, production versions representing each alternative are currently available and being evaluated. A connector for the fourth approach has been standardized by the International Organization for Standardization (ISO). This connector (ISO 7638) is mandated for ABS connections in Europe, and thus is commercially available and in widespread use. The agency does not wish to hinder industry options in this regard or limit the design development process. Therefore, the agency has not specified the exact method for providing a separate circuit to trailer ABSs. NHTSA notes that hardware for one of these approaches is currently commercially available, and hardware for the other three may evolve within the time period between now and the effective date for implementing trailer ABS. Thus, practicable methods for achieving the separate circuit requirement are currently available, and either market forces or industry consensus is all that is needed to determine which will be the standardized method.

Advocates were concerned that allowing the industry to develop a connector without government regulation could result in several connectors being available, which in turn would lead to incompatibility between tractors and trailers. AAMA stated that it was developing appropriate standards for trailer ABS power supply in cooperation with trailer manufacturers. In addition, SAE is interested in standardizing the ABS power supply.

Based on the available information, NHTSA believes that the industry will decide on an appropriate electrical circuit and standardized connector to meet the proposed full-time power and in-cab malfunction lamp requirements, without the need for a detailed requirement. The agency emphasizes that it is important that the industry standardize on only one approach, to ensure compatibility between towing vehicles and their trailers. If the industry cannot voluntarily agree on a single approach, additional rulemaking may be necessary.

NHTSA is aware that the industry is also working on multiplexing for tractor trailer electrical circuits, which could reduce the number of electrical wires needed for the various systems on the trailer. Nevertheless, multiplexing for combination vehicles is still in the developmental stage for most tractor trailer applications. The agency further notes that requiring that trailer ABSs receive full-time power will not prohibit multiplexing. Therefore, the agency believes that ATA's comments about multiplexing are not relevant.

NHTSA further notes that ATA has misinterpreted the agency's previous 1992 rule to permit powering through either the stop lamp circuit or through a separate circuit. That rulemaking responded to a petition for rulemaking from WABCO, a brake manufacturer, to amend Standard No. 121 to eliminate a design restriction. Specifically, while trailer ABS was required to be powered by the stop lamp signal circuit prior to the amendment, the amendment permitted trailer ABS powering through either the stop lamp signal circuit or a separate circuit. The agency was concerned that the pre-amendment requirement might inhibit the use of some state-of-the-art trailer ABS that have more performance features, but also have higher power requirements. Therefore, contrary to ATA's statements that the agency was acting prematurely thereby preventing the development of multiplexing, the 1992 amendment broadened the flexibility afforded to manufacturers rather than limited it. In the notice adopting that amendment, NHTSA stated that the approach it adopted to remove the design restriction

> will provide truck and trailer manufacturers and operators the flexibility needed to develop and use new trailer ABS systems. By providing such flexibility, the agency anticipates that more vehicle operators will decide to purchase ABS-equipped trailers. This is consistent with the agency's attempt [at that time] to foster voluntary adoption of trailer ABS by avoiding the specification of costly regulations that would act as disincentives for voluntarily equipping trailers and converter dollies with ABS. 57 FR at 30914.

Moreover, in the September 1993 NPRM proposing a full-time power requirement, NHTSA emphasized that the 1992 amendment was issued to ''provide regulatory relief to manufacturers in developing new trailer ABS designs, at a time when trailer ABS was optional'' and that ''the agency would revisit the issue of trailer ABS powering in the context of rulemaking in which trailer ABS would be required.''

Today's final rule culminates precisely the type of rulemaking envisioned in the 1992 notice. In today's final rule mandating that heavy vehicles be equipped with ABSs, the agency is addressing an entirely different situation from the one it was considering in 1992. NHTSA is analyzing how best to ensure safety through a mandatory requirement, not how to encourage the use of an optional safety device.

I. Applicability of Amendments

In the NPRM, NHTSA proposed applying the ABS requirements to all vehicles with GVWRs exceeding 10,000 pounds. The agency explained that this proposal went beyond ISTEA's statutory directive for the agency to initiate rulemaking concerning methods for improving braking performance of ''new commercial motor vehicles,'' which are defined as vehicles with a GVWR of 26,001 or more pounds, including truck tractors, trailers, and their dollies.

1. Trailers With Hydraulic or Electric Brakes

Manufacturers of trailers with electric or hydraulic brakes commented that they could not comply with the requirement because ABSs are not available for these types of vehicles.

NHTSA wishes to clarify that the equipment requirement in today's final rule applies to powered heavy vehicles and to air-braked trailers and dollies, but not to trailers equipped with hydraulic or electric brakes. NHTSA notes that no FMVSS addresses vehicles equipped with electric brakes and that Standard No. 105 applies ''to passenger cars, multipurpose passenger vehicles, trucks and buses with hydraulic service brake systems.'' (see S3 ''Application.'') Since electric brakes are not covered by any FMVSS and Standard No. 105 does not cover trailers equipped with hydraulic brakes, today's amendment is not applicable to trailers with these types of brakes. The agency notes, however, that a trailer equipped with an air-over-hydraulic brake system will have to comply with the ABS requirement, since an air-over-hydraulic system is a subsystem of an air-braked system, and is therefore subject to Standard No. 121.

2. Hydraulically Braked Vehicles

NAFA stated that it is premature to mandate ABSs on medium vehicles with a GVWR between 10,000 and 26,000 pounds, claiming that there are no accident or safety data supporting an ABS requirement for these vehicles. In response to both the NPRM and the SNPRM, ATA commented that the agency should not require ABSs on hydraulically braked commercial vehicles until proven ABSs are available. It stated that it is not aware of

any proven ABS for hydraulic systems nor of any effort by the government to obtain such systems for fleet tests, which it believed is necessary before mandating such equipment. In response to the SNPRM, UPS stated that this requirement should not be adopted because NHTSA has performed no tests or demonstrations on hydraulically braked vehicles. Moreover, it stated that it is aware of no proven technology that could be applied to satisfy the new NHTSA rule.

Allied Signal and Midland-Grau, two antilock brake system manufacturers, commented on the proposed requirements for ABSs on hydraulically braked heavy vehicles. Allied Signal stated that the technology for ABSs on heavy vehicles is the same as that used on passenger cars and light trucks and should not present significant technological problems. It indicated that some components such as the modulator and ECU are identical or nearly identical to those used in light vehicle applications. In addition, wheel speed sensors for hydraulically braked heavy vehicles incorporate the same technology used in wheel speed sensors for light vehicles and air braked heavy vehicles. Allied Signal commented that the agency's time frame can be achieved with proven technology. (i.e., ABS are increasing in use in this country on vehicles under 10,000 pounds GVWR). Midland-Grau commented that the industry is only about three years away from having ABSs for hydraulic braked single-unit trucks. In response to the SNPRM, AAMA stated that it is optimistic that validated ABSs will be available for all hydraulic vehicles within the proposed time frames. Nevertheless, because the availability of such systems is uncertain, it stated that there may be delays for certain types of hydraulic vehicles if development problems arise.

Based on the available information, NHTSA believes that a March 1999 effective date for requiring antilock brake systems on hydraulic braked single-unit trucks and buses provides sufficient time for vehicle manufacturers and ABS manufacturers to complete the development and testing of these systems. In addition, some Japanese and European manufacturers are currently marketing ABS for medium and large hydraulically braked vehicles. In their comments, brake manufacturers expressed confidence that such antilock systems will be available in this country.

NHTSA notes that ATA and UPS are incorrect in their belief that the agency can only issue a requirement after conducting tests or demonstrations on that specific subcategory of vehicles. Nothing in the Safety Act mandates such specific vehicle testing. Based on comments by vehicle and ABS manufacturers and the positive experience in other countries with ABS-equipped hydraulic vehicles, NHTSA has determined that requiring hydraulic vehicles with ABS is practicable and appropriate. Moreover, the agency notes that manufacturers, which have fully developed antilock systems for hydraulic brakes on passenger cars and light vehicles, will be able to apply the underlying technology (i.e., wheel speed sensors, ECU, and modulators) to heavy vehicles. The agency has provided a lead time of four years to ensure that manufacturers will have sufficient time to develop and test antilock systems for hydraulic braked heavy vehicles.

The agency is aware that Isuzu and Mitsubishi Fuso have marketed hydraulic braked heavy trucks with GVWRs of up to 16,000 pounds, with optional ABS since 1991. The ECU of the hydraulic ABS available on the Isuzu trucks is manufactured by Akebono and the remainder of the system is manufactured by Transtron. The hydraulic ABS on the Mitsubishi Fuso Trucks is manufactured by Japan ABS Co. Mercedes-Benz, offers hydraulic-braked heavy trucks with GVWRs of up to 26,000 pounds, with Bosch's ABS.

Based on this information on the current availability of hydraulic ABS in Europe and Japan and comments by vehicle and ABS manufacturers, NHTSA is confident that there will be sufficient time for the development and testing of reliable antilock brake systems for hydraulically braked vehicles. Accordingly, NHTSA believes that it is appropriate and necessary for motor vehicle safety to require hydraulically-braked vehicles to be equipped with antilock brake systems. Nevertheless, the agency plans to monitor this development closely and could modify the implementation schedule if development of antilock systems for hydraulically braked vehicles faced unexpected development problems.

J. Implementation

In the NPRM, NHTSA stated that its goal is to achieve significant improvements in braking performance at a reasonable cost to manufacturers and consumers. The agency proposed the following implementation schedule:

Truck Tractors	2 years after final rule (1996).
Trailers, including converter dollies.	3 years after final rule (1997).
Single-unit trucks	4 years after final rule (1998).
Buses	5 years after final rule (1999).

NHTSA stated that this implementation schedule was appropriate, given the current state of ABS technology. The agency believed that the schedule would provide the industry, ABS manufacturers, and maintenance personnel sufficient leadtime to prepare for the changes that would be required to accommodate the new technology.

AAMA recommended that the effective dates for the proposed heavy vehicle stability and control requirements and the previously proposed stopping distance requirements be ''synchronized for the various vehicle types.'' [60] AAMA recommended that the agency adopt the following effective dates for both the stability and control requirements and the stopping distance requirements, assuming that the two rules are issued before September 1994:

Truck tractors	2 years after final rule (1996).
Trailers, including converter dollies.	3 years after final rule (1997).
Air-braked single-unit trucks and buses.	3 years after final rule (1997).
Hydraulic-braked single-unit trucks and buses.	4 years after final rule (1998).

Similarly, HDBMC requested that the implementation schedule for the directional stability and control requirements be accelerated and that the effective dates of this rulemaking and the stopping distance rulemaking be ''made coincident to allow the industry to maximize its efforts by effectively utilizing its limited resources.''

ATA recommended effective dates of December 31, 1999 for tractors and December 31, 2001 for trailers, claiming that this schedule would permit each fleet, through its own tests, to determine which ABS is best suited to its operations and to phase in ABS accordingly. In contrast, Advocates favored the proposed implementation schedule and opposed any schedule that moved the compliance calendar to the next century.

Based on its analysis of these comments, NHTSA issued a SNPRM that proposed the following implementation schedule for both sets of requirements:

[60] On February 23, 1993, NHTSA proposed that the stopping distance requirements take effect two years after the final rule for all applicable vehicles. (58 FR 11009)

Truck tractors	2 years after final rule (1996).
Trailers	3 years after final rule (1997).
Air-braked single-unit trucks and buses.	3 years after final rule (1997).
Hydraulic-braked single unit trucks and buses.	4 years after final rule (1998).

The agency stated that making the effective dates for the two rulemakings concurrent would facilitate a more orderly implementation process, avoid the need for manufacturers to redesign the brakes on individual vehicles twice, and reduce the development and compliance costs that manufacturers would face as a result of these regulations. NHTSA requested comments about the implementation schedule proposed in the supplemental notice.

AAMA, HDBMC, Ford, GM, White GMC, Bosch, Eaton, Midland-Grau, Allied Signal, Advocates, and Gillig favored the implementation schedule proposed in the SNPRM. AAMA stated that the supplemental proposal would provide a more orderly and cost effective implementation of new requirements, thereby helping to avoid unnecessary redesign and redundant testing. Ford requested that the agency specify that the requirements have September 1 effective dates. Strait-Stop favored keeping the stopping distance requirements separate from the stability and control ones.

ATA favored a phased in implementation schedule under which manufacturers would be required to sell (or consumers would be required to purchase) air braked powered vehicles with at least 25 percent ABS in 1996, 50 percent in 1997, 75 percent in 1998, and 100 percent in 1999. Trailers would have a similar phase-in beginning in 1998. ATA stated that a phase-in is necessary to allow manufacturers the opportunity to offer a wider selection of ABS and to provide time to improve existing systems. Moreover, ATA claimed that a phase-in was essential to users because it would allow experimentation with different systems, thereby increasing public acceptance of the ABS mandate. Similarly, Tramec favored introducing the requirements over a period of time instead of all at once. Eaton cautioned that unforeseen manufacturing problems may impact product quality and availability. Therefore, it stated that a gradual increase in ABS usage would reduce concerns about manufacturer capacity and end-user support abilities.

After reviewing the available information, NHTSA has decided to adopt an implementation schedule similar to the one proposed in the SNPRM. Specifically, truck tractors manufactured on or after March 1, 1997 will have to be equipped with ABS and comply with the braking-in-a-curve test and high coefficient of friction stopping distance requirements; trailers and single-unit air braked trucks and buses manufactured on or after March 1, 1998 will have to be equipped with ABS, and single-unit air braked trucks and buses will also have to comply with the high coefficient of friction stopping distance requirements; and hydraulic braked trucks and buses manufactured on or after March 1, 1999 will have to be equipped with ABS and comply with the high coefficient of friction stopping distance requirements. The agency has decided that these effective dates, which were widely supported by vehicle manufacturers, brake manufacturers, and safety advocacy groups, will provide for an efficient implementation of Congress's desire that NHTSA require heavy vehicles to be equipped with ABSs. This implementation schedule phases in ABS for heavy vehicles over a three-year period. Truck tractors, the vehicle type with the largest potential safety benefit from ABS, are required to comply with the rule first.

This phase-in should facilitate consumer acceptance, since truck tractors, the most standardized type of heavy vehicle, will be subject to the regulation first. Only after this relatively uniform type of vehicle is equipped with ABS, will single unit vehicles which include more niche vehicles (e.g., dump trucks) be required to comply with the regulation?

In deciding on the most appropriate implementation schedule, NHTSA gave serious consideration to ATA's suggestion that the requirements of this rule be phased in on a percentage basis over a four-year period. However, for the reasons set forth below, NHTSA has determined that the implementation schedule being adopted in today's final rule will provide the most benefits in the most cost effective manner. The agency emphasizes that adopting ATA's recommended phase-in would have resulted in needless and protracted delay, thereby resulting in a significantly less safe highway environment.

Such a delay is unnecessary given the current state of development for ABS. At the time of publication of this final rule, six of the seven major U.S. manufacturers of heavy trucks, Freightliner Corporation, Peterbilt Motors Corporation, Kenworth Truck Company, Ford Motor Company, Mack Corporation, and Navistar International Corporation, have publicly announced that some or all of their product line of truck tractors, and in some cases single-unit trucks, will be equipped with ABS, as standard equipment, beginning with the 1995 model year. For heavy vehicle manufacturers, that model year began the summer of 1994. Thus, it appears that the marketplace has already addressed ATA's concern that manufacturers cannot meet increasing market demand for ABS. Also, manufacturers are typically warranting ABS for 300,000 miles or three years, a fact that should allay ATA's concerns that manufacturers will not support their product offerings.

NHTSA further notes that the final rule includes a phase-in requirement in which the vehicles for which braking stability is the greatest concern (truck tractors and trailers) are required to be equipped with ABS first. Single-unit trucks and buses follow at a later date. This will facilitate vehicle manufacturers' efforts to engineer these systems into their entire line of product offerings over a period of time spanning four years, instead of having to do it all in one year. This should substantially reduce burdens on manufacturers and give them sufficient time to engineer and accomplish high quality installations of ABS, which is a major concern of ATA.

K. Intermediate and Final Stage Manufacturers/Trailer Manufacturers

In the NPRM, NHTSA provided an extensive discussion about the potential effect of the proposed requirements on intermediate, final stage, and trailer manufacturers. The agency explained that it is aware of the concerns of final stage and intermediate stage manufacturers about road testing their vehicles. In particular, the agency explained how an incomplete vehicle manufacturer could pass through certification to the final stage manufacturer and how a final stage manufacturer could certify compliance with the proposed requirements.

NTEA commented that many of its members, most of whom are final stage manufacturers of vehicles produced in two or more stages, would not be able to use the pass-through certification because it believed that the guidelines provided by the incomplete vehicle manufacturer would be very restrictive. NTEA stated that these final stage manufacturers would, therefore, have no practicable and objective means of demonstrating compliance with the braking-in-a-curve requirement because they have neither the financial nor engineering resources to conduct their own compliance testing. NTEA

therefore requested that the agency exclude from this requirement all ''multi-staged produced vehicles that are equipped with a cargo-carrying body or work-related equipment.'' Likewise, Midland-Grau stated that final stage manufacturers do not have the resources to certify their vehicles, and believed that it would be difficult for chassis manufacturers to establish comprehensive guidelines for final stage manufacturers to follow. AM General commented that small vehicle manufacturers will face undue burdens, and suggested that the rulemaking be limited to only Class 7 and 8 vehicles (which are the largest heavy vehicles, typically truck tractors over 26,000 pounds).

As explained above, NHTSA has decided to apply the braking-in-a-curve test only to truck tractors at this time. These vehicles are manufactured almost exclusively by large, single stage manufacturers. This final rule does not require manufacturers of single-unit vehicles and trailers, such as NTEA's members, to establish compliance with today's amendments through road testing. While incomplete single unit vehicles and trailers will have to be equipped with ABSs, the final stage and trailer manufacturers can ensure the presence of the equipment on their vehicles and can reasonably rely on a brake manufacturer's assurances that its ABS complies with the standard. Specifically, certification of compliance with the equipment requirement for ABS does not necessitate road testing.

Nothing in the preceding discussion should be understood as indicating that the agency agrees with NTEA's comment that it would be impracticable for a final stage manufacturer to certify compliance with the braking-in-a-curve test. As explained in the NPRM, while a manufacturer must certify that its vehicles meet all applicable safety standards, a manufacturer need not necessarily conduct the specific tests set forth in an applicable standard. Certifications may be based on, among other things, engineering analyses, actual testing, and computer simulations. Moreover, a manufacturer need not conduct these operations itself. A manufacturer can utilize the services of independent engineers and testing laboratories. It can also join together with other manufacturers through trade associations to sponsor testing or analysis. Finally, it can rely on testing and analysis performed by other parties, including the brake manufacturers.

L. Benefits

As detailed in the FRE, NHTSA estimates that the use of ABS on all heavy vehicles will help prevent between 320 and 506 fatalities, between 15,900 and 27,413 injuries, and between $458 million and $553 million of property damage each year. Based on its evaluation, NHTSA believes that the rulemaking is cost beneficial since a significant number of crashes resulting in fatalities and property damage will be prevented by this rulemaking.

In its comments, ATA questioned NHTSA's benefit analysis, arguing that recent accident data analyses have indicated that ABS on passenger cars does not result in significant reductions in crashes. The agency believes that it is neither appropriate nor possible to project effectiveness estimates for ABS, or for that matter, other safety equipment/features from one type of vehicle to another. As ATA is aware, vehicle loading characteristics for heavy vehicles differ significantly from those of passenger cars. Although the study upon which NHTSA based its benefit estimates did not specifically analyze whether heavy vehicles equipped with ABS have statistically lower accident rates, the results of that study carefully analyzed and reconstructed heavy vehicle crashes to estimate the likely benefit of ABS. The agency believes that its benefit analysis accurately estimates the benefits of heavy vehicle ABS.

ATA also argues that ''the presence of ABS did not lead to a reduction in the accident rate, since in NHTSA's tractor fleet study, the proportion of crashes involving ABS-equipped tractors is the same as their proportion of the total fleet. NHTSA disagrees with this contention. The agency's fleet studies of ABS were never intended to result in estimates of the safety benefit of ABS. The total number of crashes that occurred during the tractor fleet study, fourteen, is too small to draw any statistically significant conclusions about the relative safety of ABS-equipped versus non-ABS-equipped vehicles.

M. Costs

In the ANPRM, NHTSA estimated that the unit cost to a manufacturer for a complete six-channel ABS installed on a 6 x 4 tractor would be approximately $1400 or approximately $1100 for a full Select Low ABS. It estimated that the unit cost to a manufacturer to install ABS on a trailer would be $900.

In response to comments to the ANPRM, NHTSA reevaluated its initial cost estimates to include several additional components including the wiring harnesses, mounting hardware, and in-cab warnings. As the Preliminary Regulatory Impact Analysis (PRIA) explained in detail, the agency estimated that the unit cost for a vehicle purchaser to comply with the proposed requirements (including the connectors and cables that provide full-time power) would be approximately $2900 for the average truck tractor, $2350 for the average single-unit truck and bus, $1850 for a non-towing trailer, $1700 for a towing trailer, and $1475 for a trailer converter dolly. Based on these estimates of consumer costs and estimated annual production of 137,000 truck tractors, 160,000 single unit trucks and school buses, and 7000 transit and intercity buses, the agency estimated that the annual costs for these vehicles would be $790 million. For trailers, these consumer cost estimates together with an annual production of 115,000 non-towing trailers, 32,000 towing trailers, and 3,000 trailer converter dollies yields an estimated annual cost of $272 million.

Since the preparation of the PRIA, NHTSA has completed a detailed engineering process-cost analysis study in which antilock braking systems from three ABS manufacturers were evaluated. The cost evaluation entailed a physical tear-down of the system, in which the cost of each part was determined based on the actual manufacturing process used in its production. The study estimated the weight and various costs related to the production and installation of three 4S/4M tractor ABS, each from a different ABS manufacturer, and three different trailer ABS configurations, a 6S/3M, a 4S/2M and a 2S/1M, each from a different manufacturer. Based on that cost information, the agency estimates that the cost for the minimum ABS needed to comply with the requirements in this amendment would be: $749.33 for a truck tractor, $682.51 for a single-unit truck, and $439.64 for a trailer. Separate analyses estimated the cost and weight of tractor-to-trailer connectors/cables and related wiring ($93.97 for a truck tractor, $39.52 for a non-towing trailer, and $133.49 for a towing trailer or trailer converter dolly), and of in-cab ABS malfunction indicator lamps (MIL) for tractors and trailer-mounted ABS MILs for trailers ($13.66 for a truck tractor, $9.47 for a single-unit truck, and $9.43 for a trailer). The total estimated cost to the vehicle purchaser is estimated to be: $856.96 for a truck tractor, $691.98 for a single-unit truck or bus, $488.59 for a non-towing trailer, and $582.56 for a towing trailer or trailer converter dolly. Based on these estimates of increased cost to the vehicle purchaser and estimated annual production of 147,600 truck tractors, 248,300 single unit trucks and school

buses, and 7000 transit and intercity buses, the agency estimates that the annual costs for these vehicles would be $303 million. For trailers and trailer converter dollies, these estimates of increased cost to the vehicle purchaser together with an annual production of 139,400 non-towing trailers, 46,700 towing trailers, and 2,900 trailer converter dollies yields an estimated annual cost of $97 million. Therefore, the agency estimates that the total annual increased cost for equipping heavy vehicles with ABS will be $400 million.

Along with estimating the cost increases to the new vehicle purchaser, NHTSA also estimated the increases in the cost of operating heavy vehicles equipped with ABS. Three categories of operating costs were examined: lifetime maintenance costs, lifetime fuel costs due to the additional weight of the ABS, and lifetime revenue loss due to payload displacement. The range of the increase in total lifetime operating costs related to equipping heavy vehicles with ABS is from $201.47 to $786.65. Since the estimates for these various operating costs are dependent upon the type of fuel used for powered vehicles and on the estimated lifetime vehicle miles travelled (VMT) for the various vehicle types, the heavy vehicles were divided into 18 different fuel type/VMT categories. The total estimated increase in vehicle operating costs associated with ABS for all heavy vehicles is $232 million. The reader is referred to the FEA for a detailed discussion of the costs for these different categories.

In its comments, ATA questioned NHTSA's portrayal of the increases in vehicle maintenance costs as not being significant compared to overall cost of maintaining the air brake system on heavy vehicles. ATA did not, however, question the actual increased maintenance cost per mile estimates derived from the agency's fleet studies. It is these estimates of the increased maintenance cost per mile that were used in estimating the total cost impact of this rulemaking and determining that the amendment is cost effective. As such, the agency believes that the relative increase in vehicle maintenance that would result in different fleets is not the important factor in evaluating the impact of this Final Rule.

IX. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impacts of this rulemaking action and determined that it is ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. In addition, the Office of Management and Budget has determined that it is ''significant'' within the meaning of Executive Order 12866. The agency has prepared a Final Economic Assessment describing the economic and other effects of this rulemaking action. Summary discussions of those effects are provided above. For persons wishing to examine the full analysis, a copy is being placed in the docket.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a final regulatory flexibility analysis.

The primary cost effect of the requirements will be on manufacturers of heavy vehicles which are generally large businesses. However, final stage manufacturers are generally small businesses. A detailed discussion about the anticipated economic impact on these businesses is provided in the FRIA.

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

D. Executive Order 12612 (Federalism)

NHTSA has analyzed this action under the principles and criteria in Executive Order 12612. The agency has determined that this notice does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. No State laws will be affected.

E. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency is amending Section 571.3, Standard No. 101, *Controls and Displays*, Standard No. 105, *Hydraulic Brake Systems* and Standard No. 121, *Air Brake Systems*, in Title 49 of the Code of Federal Regulations at Part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166, delegation of authority at 49 CFR 1.50.

2. Part 571.3 is amended in paragraph (b) to add a definition of ''Full Trailer'' as follows:

§ 571.3 Definitions.

* * * * *

Full trailer means a trailer, except a pole trailer, that is equipped with two or more axles that support the entire weight of the trailer.

* * * * *

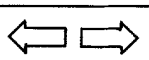
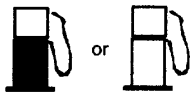
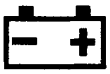
3. In § 571.101, Table 2 is revised to appear as follows:

§ 571.101 Standard No. 101; Controls and Displays.

* * * * *

BILLING CODE 4910–59–P

Table 2
Identification and Illustration of Displays

Column 1	Column 2	Column 3	Column 4	Column 5
Display	*Telltale Color*	*Identifying Words or Abbreviation*	*Identifying Symbol*	*Illumination*
Turn Signal Telltale	Green	Also see FMVSS 108	 [1] [6]	—
Hazard Warning Telltale		Also see FMVSS 108	 [2] [6]	—
Seat Belt Telltale	— [7]	Fasten Belts or Fasten Seat Belts Also see FMVSS 208		—
Fuel Level Telltale		Fuel	 [6]	—
Gauge	—			Yes
Oil Pressure Telltale		Oil	 [6]	—
Gauge	—			Yes
Coolant Temperature Telltale		Temp	 [6]	—
Gauge	—			Yes
Electrical Charge Telltale		Volts, Charge or Amp	 [6]	—
Gauge	—			Yes
Highbeam Telltale	Blue or Green [4]	Also see FMVSS 108	 [6]	—
Brake System [8]	Red [4]	Brake, Also see FMVSS 105 & 135	—	—
Malfunction in Anti-Lock or	Yellow	Antilock, Anti-lock, or ABS. Also see FMVSS 105 & 135	—	—
Variable Brake Proportioning System [8]	Yellow	Brake Proportioning Also see FMVSS 135	—	—
Parking Brake Applied [8]	Red [4]	Park or Parking Brake Also see FMVSS 105 & 135	—	—
Malfunction in Antilock	Yellow	ABS, or Antilock; Trailer ABS, or Trailer Antilock. Also see FMVSS 121	—	—
Brake Air Pressure Position Telltale		Brake Air, Also see FMVSS 121	—	—
Speedometer	—	MPH [5]	—	Yes
Odometer	—	— [3]	—	—
Automatic Gear Position	—	Also see FMVSS 102	—	Yes

[1] The pair of arrows is a single symbol. When the indicator for left and right turn operate independently, however, the two arrows will be considered separate symbols and may be spaced accordingly.

[2] Not required when arrows of turn signal tell-tales that otherwise operate independently flash simultaneously as hazard warning telltale.

[3] If the odometer indicates kilometers, then "KILOMETERS" or "km" shall appear, otherwise, no identification is required.

[4] Red can be red-orange. Blue can be blue-green.

[5] If the speedometer is graduated in miles per hour and in kilometers per hour, the identifying words or abbreviations shall be "MPH and km/h" in any combination of upper or lower case letters.

[6] Framed areas may be filled.

[7] The color of the telltale required by S4.5.3.3 of Standard No 208 is red; the color of the telltale required by S7.3 of Standard No. 208 is not specified.

[8] In the case where a single telltake indicates more than one brake system condition, the word for Brake System shall be used.

MVSS Tables–Jobe 2b Disk

BILLING CODE 4910–59–C

* * * * *

4. Section 571.105 is amended in S4 by removing the definition of ''Antilock system'' and by adding the definitions of ''Antilock brake system,'' ''Directly controlled wheel,'' ''Indirectly controlled wheel,'' and ''Peak friction coefficient;'' by revising S5.1, S5.3, S5.3.1(c), S5.3.3; and S5.5; and adding S5.3.3(a), S5.3.3(b), S5.5.1 and S5.5.2 to read as follows:

§ 571.105 Standard No. 105, hydraulic brake systems.

* * * * *

Antilock brake system or *ABS* means a portion of a service brake system that automatically controls the degree of rotational wheel slip during braking by:

(1) Sensing the rate of angular rotation of the wheels;

(2) Transmitting signals regarding the rate of wheel angular rotation to one or more controlling devices which interpret those signals and generate responsive controlling output signals; and

(3) Transmitting those controlling signals to one or more modulators which adjust brake actuating forces in response to those signals.

* * * * *

Directly Controlled Wheel means a wheel at which the degree of rotational wheel slip is sensed and corresponding signals are transmitted to one or more modulators that adjust the brake actuating forces at that wheel. Each modulator may also adjust the brake actuating forces at other wheels in response to the same signal[s].

* * * * *

Indirectly Controlled Wheel means a wheel at which the degree of rotational wheel slip is not sensed, but at which the modulator of an antilock braking system adjusts its brake actuating forces in response to signals from one or more sensed wheels.

* * * * *

Peak friction coefficient or *PFC* means the ratio of the maximum value of braking test wheel longitudinal force to the simultaneous vertical force occurring prior to wheel lockup, as the braking torque is progressively increased.

* * * * *

S5.1 *Service brake systems.* Each vehicle shall be equipped with a service brake system acting on all wheels. Wear of the service brake shall be compensated for by means of a system of automatic adjustment. Each passenger car and each multipurpose passenger vehicle, truck, and bus with a GVWR of 10,000 pounds or less shall be capable of meeting the requirements of S5.1.1 through S5.1.6 under the conditions prescribed in S6, when tested according to the procedures and in the sequence set forth in S7. Each school bus with a GVWR greater than 10,000 pounds shall be capable of meeting the requirements of S5.1.1 through S5.1.5 under the conditions prescribed in S6, when tested according to the procedures and in the sequence set forth in S7. Each multipurpose passenger vehicle, truck, and bus (other than a school bus) with a GVWR greater than 10,000 pounds shall be capable of meeting the requirements of S5.1.1, S5.1.2, and S5.1.3 under the conditions prescribed in S6, when tested according to the procedures and in the sequence set forth in S7. Except as noted in S5.1.1.2 and S5.1.1.4, if a vehicle is incapable of attaining a speed specified in S5.1.1, S5.1.2, S5.1.3, or S5.1.6, its service brakes shall be capable of stopping the vehicle from the multiple of 5 mph that is 4 to 8 mph less than the speed attainable in 2 miles, within distances that do not exceed the corresponding distances specified in Table II. If a vehicle is incapable of attaining a speed specified in S5.1.4 in the time or distance interval set forth, it shall be tested at the highest speed attainable in the time or distance interval specified.

* * * * *

S5.3 *Brake system indicator lamp.* Each vehicle shall have a brake system indicator lamp or lamps, mounted in front of and in clear view of the driver, which meet the requirements of S5.3.1 through S5.3.5. A vehicle with a GVWR of 10,000 pounds or less may have a single common indicator lamp. A vehicle with a GVWR of greater than 10,000 pounds may have an indicator lamp which is common for gross loss of pressure, drop in the level of brake fluid, or application of the parking brake, but shall have a separate indicator lamp for antilock brake system malfunction. However, the options provided in S5.3.1(a) shall not apply to a vehicle manufactured without a split service brake system; such a vehicle shall, to meet the requirements of S5.3.1(a), be equipped with a malfunction indicator that activates under the conditions specified in S5.3.1(a)(4). This warning indicator shall, instead of meeting the requirements of S5.3.2 through S5.3.5, activate (while the vehicle remains capable of meeting the requirements of S5.1.2.2 and the ignition switch is in the ''on'' position) a continuous or intermittent audible signal and a flashing warning light, displaying the words ''STOP-BRAKE FAILURE'' in block capital letters not less than one-quarter of an inch in height.

* * * * *

S5.3.1 * * *

(c) A malfunction that affects the generation or transmission of response or control signals in an antilock brake system, or a total functional electrical failure in a variable proportioning brake system.

* * * * *

S5.3.3 (a)Each indicator lamp activated due to a condition specified in S5.3.1 shall remain activated as long as the malfunction exists, whenever the ignition (start) switch is in the ''on'' (run) position, whether or not the engine is running.

(b) For vehicles with a GVWR greater than 10,000 pounds, each message about the existence of a malfunction in an antilock brake system shall be stored after the ignition switch is turned to the ''off'' position and automatically reactivated when the ignition switch is turned to the ''on'' position. The indicator lamp shall also be activated as a check of lamp function whenever the ignition is turned to the ''on'' (run) position. The indicator lamp shall be deactivated at the end of the check of the lamp function unless there is a malfunction or a message about a pre-existing malfunction.

* * * * *

S5.5. *Antilock and Variable Proportioning Brake Systems.*

S5.5.1 Each vehicle with a GVWR greater than 10,000 pounds, except for any vehicle that has a speed attainable in 2 miles of not more than 33 mph, shall be equipped with an antilock brake system that directly controls the wheels of at least one front axle and the wheels of at least one rear axle of the vehicle. Wheels on other axles of the vehicle may be indirectly controlled by the antilock brake system.

S5.5.2 In the event of any failure (structural or functional) in an antilock or variable proportioning brake system, the vehicle shall be capable of meeting the stopping distance requirements specified in S5.1.2 for service brake system partial failure.

* * * * *

§ 571.121 Standard No. 121, air brake systems.

5. Section 571.121 is amended in S4 by removing the definitions of ''Antilock system'' and ''skid number'' and by adding the definitions of ''Antilock brake system,'' ''Directly Controlled Wheel,'' ''Full-treadle brake application,'' ''Independently Controlled Wheel,'' ''Indirectly Controlled Wheel,'' ''Maximum drive-

through speed,'' ''Peak friction coefficient;'' by revising S5.1.6 and adding S5.1.6.1, S5.1.6.2, and S5.1.6.3; by adding S5.2.3, S5.2.3.1, S5.2.3.2, and S5.2.3.3; by revising S5.3; by adding S5.3.6, S5.3.6.1, and S5.3.6.2; by revising S5.5.1, S5.5.2, S6.1.7, S6.1.10, S6.1.10.2, S6.1.10.3, and S6.1.10.4; by removing and reserving S6.1.10.1; by removing S6.1.10.5, S6.1.10.6, and S6.1.10.7, and by adding S6.1.15 to read as follows:

§ 571.121 Standard No. 121; air brake systems.

* * * * *

Antilock Brake System or *ABS* means a portion of a service brake system that automatically controls the degree of rotational wheel slip during braking by:

(1) Sensing the rate of angular rotation of the wheels;

(2) Transmitting signals regarding the rate of wheel angular rotation to one or more controlling devices which interpret those signals and generate responsive controlling output signals; and

(3) Transmitting those controlling signals to one or more modulators which adjust brake actuating forces in response to those signals.

* * * * *

Directly Controlled Wheel means a wheel at which the degree of rotational wheel slip is sensed and corresponding signals are transmitted to one or more modulators that adjust the brake actuating forces at that wheel. Each modulator may also adjust the brake actuating forces at other wheels in response to the same signal[s].

* * * * *

''Full-treadle brake application'' means a brake application in which the treadle valve pressure in any of the valve's output circuits reaches 100 psi within 0.2 seconds after the application is initiated.

* * * * *

Independently Controlled Wheel means a directly controlled wheel for which the modulator does not adjust the brake actuating forces at any other wheel on the same axle.

* * * * *

Indirectly Controlled Wheel means a wheel at which the degree of rotational wheel slip is not sensed, but at which the modulator of an antilock braking system adjusts its brake actuating forces in response to signals from one or more sensed wheel(s).

* * * * *

''Maximum drive-through speed'' means the highest possible constant speed at which the vehicle can be driven through 200 feet of a 500-foot radius curve arc without leaving the 12-foot lane.

* * * * *

Peak friction coefficient or *PFC* means the ratio of the maximum value of braking test wheel longitudinal force to the simultaneous vertical force occurring prior to wheel lockup, as the braking torque is progressively increased.

* * * * *

S5.1.6 *Antilock Brake System.*

S5.1.6.1(a) Each single-unit vehicle manufactured on or after March 1, 1998 shall be equipped with an antilock brake system that directly controls the wheels of at least one front axle and the wheels of at least one rear axle of the vehicle. Wheels on other axles of the vehicle may be indirectly controlled by the antilock brake system.

S5.1.6.1(b) Each truck tractor manufactured on or after March 1, 1997 shall be equipped with an antilock brake system that directly controls the wheels of at least one front axle and the wheels of at least one rear axle of the vehicle, with the wheels of at least one axle being independently controlled. Wheels on other axles of the vehicle may be indirectly controlled by the antilock brake system. A truck tractor shall have no more than three wheels controlled by one modulator.

S5.1.6.2 *Antilock Malfunction Circuit and Signal.*

(a) Each truck tractor manufactured on or after March 1, 1997 and each single unit vehicle manufactured on or after March 1, 1998 shall be equipped with an electrical circuit that is capable of signalling a malfunction that affects the generation or transmission of response or control signals in the vehicle's antilock brake system.

(b) Each truck tractor manufactured on or after March 1, 1997 and each single unit vehicle manufactured on or after March 1, 1998 shall have an indicator lamp, mounted in front of and in clear view of the driver, which is activated whenever there is a malfunction that affects the generation or transmission of the response or control signals in an antilock brake system. The indicator lamp shall remain activated as long as the malfunction exists, whenever the ignition (start) switch is in the ''on'' (run) position, whether or not the engine is running. Each message about the existence of a malfunction in an antilock brake system shall be stored after the ignition switch is turned to the ''off'' position and automatically reactivated when the ignition switch is turned to the ''on'' position. The indicator lamp shall also be activated as a check of lamp function whenever the ignition is turned to the ''on'' or ''run'' position. The indicator lamp shall be deactivated at the end of the check of lamp function unless there is a malfunction or a message about a pre-existing malfunction.

(c) Each truck tractor manufactured on or after March 1, 1997 and each single unit vehicle manufactured on or after March 1, 1998 that is equipped to tow another air-braked vehicle, shall be equipped with an electrical circuit that is capable of transmitting information about a malfunction in the antilock brake system on one or more towed vehicle(s) (e.g., trailer(s) and dolly(ies)). Each such vehicle shall also be equipped with an indicator lamp, mounted in front of and in clear view of the driver, capable of receiving, from one or more antilock equipped towed vehicle(s), information transmitted about a malfunction of a towed vehicle's antilock system and then activating the indicator lamp when there is a malfunction in the towed vehicle's antilock brake system. The indicator lamp shall remain activated as long as the malfunction exists, whenever the ignition (start) switch is in the ''on'' (run) position, whether or not the engine is running. The indicator lamp shall also be activated as a check of lamp function whenever the ignition is turned to the ''on'' or ''run'' position. The indicator lamp shall be deactivated at the end of the check of lamp function unless there is a malfunction or a message about a pre-existing malfunction.

S5.1.6.3 *Antilock Power Circuit for Towed Vehicles.* Each truck tractor manufactured on or after March 1, 1997 and each single unit vehicle manufactured on or after March 1, 1998 that is equipped to tow another air-braked vehicle shall be equipped with one or more separate electrical circuits, specifically provided to power the antilock system on the towed vehicle(s). Such a circuit shall be adequate to enable the antilock system on each towed vehicle to be fully operable.

* * * * *

S5.2.3 *Antilock Brake System.*

S5.2.3.1(a) Each semitrailer (including a trailer converter dolly) manufactured on or after March 1, 1998 shall be equipped with an antilock brake system that directly controls the wheels of at least one axle of the vehicle. Wheels on other axles of the vehicle may be indirectly controlled by the antilock brake system.

(b) Each full trailer manufactured on or after March 1, 1998 shall be equipped with an antilock brake system that directly controls the wheels of at least

one front axle of the vehicle and at least one rear axle of the vehicle. Wheels on other axles of the vehicle may be indirectly controlled by the antilock brake system.

S5.2.3.2 *Antilock Malfunction Circuit and Signal.* Each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998 that is equipped with an antilock brake system shall be equipped with an electrical circuit that is capable of signalling a malfunction in the trailer antilock brake system, and shall comply with the requirements of S5.2.3.3. A trailer manufactured on or after March 1, 1998 that is not designed to tow another air brake equipped trailer shall have the means for connection of the antilock malfunction signal circuit and ground, at the front of the trailer. A trailer manufactured on or after March 1, 1998 that is designed to tow another air brake equipped trailer shall be capable of transmitting a malfunction signal from the antilock systems of additional trailers in a combination and shall have means for the connection of the antilock malfunction signal circuit and ground, at both the front and rear of the trailer. Each message about the existence of a malfunction in an antilock brake system shall be stored whenever power is no longer supplied to the system. The indicator lamp shall also be activated as a check of lamp function whenever power is supplied to the antilock brake system. The indicator lamp shall be deactivated at the end of the check of lamp function unless there is a malfunction or a message about a pre-existing malfunction.

S5.2.3.3 *Antilock Malfunction Indicator.* Each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998 and before March 1, 2006 shall be equipped with a lamp indicating a malfunction of a trailer's antilock brake system. Such a lamp shall remain activated as long as the malfunction exists whenever the power is supplied to the antilock brake system. The display shall be visible within the driver's forward field of view through the rearview mirror(s), and shall be visible once the malfunction is present and power is provided to the system.

* * * * *

S5.3 *Service Brakes—road tests.* The service brake system on each truck tractor manufactured before March 1, 1997 shall, under the conditions of S6, meet the requirements of S5.3.3 and S5.3.4, when tested without adjustments other than those specified in this standard. The service brake system on each truck tractor manufactured on or after March 1, 1997 shall, under the conditions of S6, meet the requirements of S5.3.1, S5.3.3, S5.3.4, and S5.3.6, when tested without adjustments other than those specified in this standard. The service brake system on each bus and truck (other than a truck tractor) manufactured before March 1, 1998 shall, under the conditions of S6, meet the requirements of S5.3.3, and S5.3.4, when tested without adjustments other than those specified in this standard. The service brake system on each bus and truck (other than a truck tractor) manufactured on or after March 1, 1998 shall, under the conditions of S6, meet the requirements of S5.3.1, S5.3.3, and S5.3.4 when tested without adjustments other than those specified in this standard. The service brake system on each trailer shall, under the conditions of S6, meet the requirements of S5.3.3, S5.3.4, and S5.3.5 when tested without adjustments other than those specified in this standard. However, a heavy hauler trailer and the truck and trailer portions of an auto transporter need not meet the requirements of S5.3.

* * * * *

S5.3.6 *Stability and Control During Braking—Truck Tractors.* When stopped three consecutive times for each combination of weight, speed, and road condition specified in S5.3.6.1 and S5.3.6.2, each truck tractor manufactured on or after March 1, 1997 shall stop each time within the 12-foot lane, without any part of the vehicle leaving the roadway.

S5.3.6.1 Using a full-treadle brake application, stop the vehicle from 30 mph or 75% of the maximum drive-through speed, whichever is less, on a 500-foot radius curved roadway with a wet level surface having a peak friction coefficient of 0.5 when measured using an American Society for Testing and Materials (ASTM) E1136 standard reference test tire, in accordance with ASTM Method E1337–90, at a speed of 40 mph, with water delivery.

S5.3.6.2 Stop the vehicle with the vehicle

(a) loaded to its GVWR, and

(b) at its unloaded weight plus up to 500 pounds (including driver and instrumentation), or at the manufacturer's option, at its unloaded weight plus up to 500 pounds (including driver and instrumentation) and plus not more than an additional 1000 pounds for a roll bar structure on the vehicle.

* * * * *

S5.5.1 *Antilock System Malfunction.* On a truck tractor manufactured on or after March 1, 1997 and a single unit vehicle manufactured on or after March 1, 1998 that is equipped with an antilock brake system, a malfunction that affects the generation or transmission of response or control signals of any part of the antilock system shall not increase the actuation and release times of the service brakes.

* * * * *

S5.5.2 *Antilock System Power—Trailers.* On a trailer (including a trailer converter dolly) manufactured on or after March 1, 1998 that is equipped with an antilock system that requires electrical power for operation, the power shall be obtained from one or more separate electrical circuits specifically provided to power the trailer antilock system. The antilock system shall automatically receive power from the stop lamp circuit, if the separate power circuit or circuits are not in use. Each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998 that is equipped to tow another air-braked vehicle shall be equipped with one or more separate electrical circuits specifically provided to power the antilock system on the towed vehicle(s). Such circuits shall be adequate to enable the antilock system on each towed vehicle to be fully operable.

* * * * *

S6.1.7 Unless otherwise specified, stopping tests are conducted on a 12-foot wide level, straight roadway having a peak friction coefficient of 0.9. For road tests in S5.3, the vehicle is aligned in the center of the roadway at the beginning of a stop. Peak friction coefficient is measured using an ASTM E1136 standard reference test tire in accordance with ASTM method E1337–90, at a speed of 40 mph, without water delivery for the surface with PFC of 0.9, and with water delivery for the surface with PFC of 0.5.

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S6.1.10 In a test other than a static parking test, a truck tractor is tested at its GVWR by coupling it to an unbraked flatbed semi-trailer (hereafter, control trailer) as specified in S6.1.10.2 to S6.1.10.4.

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S6.1.10.1 [RESERVED]

S6.1.10.2 The center of gravity height of the ballast on the loaded control trailer shall be less than 24 inches above the top of the tractor's fifth wheel.

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S6.1.10.3 The control trailer has a single axle with a gross axle weight rating of 18,000 pounds and a length, measured from the transverse centerline of the axle to the centerline of the kingpin, of 258 ± 6 inches.

S6.1.10.4 The control trailer is loaded so that its axle is loaded at 4,500 pounds and the tractor is loaded to its GVWR, loaded above the kingpin only, with the tractor's fifth wheel adjusted so that the load on each axle measured at the tire-ground interface is most nearly proportional to the axles' respective GAWRs, without exceeding the GAWR of the tractor's axle or axles or control trailer's axle.

* * * * *

S6.1.15 *Initial Brake Temperature.* Unless otherwise specified, the initial brake temperature is not less than 150 °F and not more than 200 °F.

* * * * *

Issued on: March 1, 1995.

Ricardo Martinez,

Administrator.

Note.—The following appendix will not appear in the Code of Federal Regulations:

Appendix—Braking Systems, Tires, Wheel Lockup, and Loss-of-Control Crashes

1. Introduction

NHTSA is providing a brief discussion [1] of braking systems, tires, wheel lockup, and loss-of-control crashes in this Appendix; interested persons are referred to several agency reports [2] for a more complete discussion.

An ABS is a closed-loop feedback control system that, above a preset minimum speed, automatically modulates brake pressure in response to measured wheel speed performance to control the degree of wheel slip during braking and provide improved utilization of the friction available between the tires and the road. These systems, therefore, could justifiably be called antilock brake/tire systems since their function is to balance brake torque with tire/road friction to obtain that wheel slip which optimizes braking performance. Antilock system designers must take into consideration the characteristics of brake systems and tires—both must be understood in order to optimize the performance of antilock systems.

2. Heavy Vehicle Brake Systems

The function of a motor vehicle's brake system is to slow or stop the vehicle or to hold it stationary. Service brake systems [3] consist of foundation brake assemblies (the portion of the system that actually creates brake torque and the resulting retarding forces at the tire/road interface) and a service brake control system.

There are two principal types of foundation brakes in use: drum and disc brakes. Drum brakes create retarding friction by pressing contoured brake linings against the inside walls of brake drums that are attached the vehicle's wheels. Disc brakes perform the same function by squeezing or clamping both sides of a brake rotor between two or more brake pads.

There are two principal types of service brake control systems, hydraulic and pneumatic. These service brake control systems consist of the components necessary to distribute and control the fluid pressure to the foundation brake assemblies. In the case of an air brake system, this is pneumatic pressure; i.e., compressed air, and in the case of an hydraulic brake system, this is hydrostatic pressure; i.e., pressurized brake fluid.

In the case of an air brake system, the service brake control system modulates the air pressure in the service brake system. Pressurized (compressed) air stored in reservoirs is supplied through a foot-actuated service brake control valve (treadle valve). This air pressure, which varies in proportion to how far the treadle valve is depressed, is then applied through a series of pneumatic valves (relay valves, and in the case of vehicles equipped with antilock brake systems, modulator valves) to the service brake chambers located near each wheel on the vehicle. This air pressure in the service brake chambers in turn applies forces to the brake linings or pads within the foundation brakes to create brake torque. Pneumatic systems are open, in that air, once utilized at a brake chamber, is exhausted to atmosphere. Air pressure levels in reservoirs are maintained by an engine-driven compressor.

Hydraulic brake systems utilize an incompressible fluid (a petroleum-based brake fluid), metered through a combined valve and reservoir (brake master cylinder), to create variable amounts of hydrostatic pressure within a closed system of brake lines. The brake lines transmit this pressure to wheel cylinders or brake caliper pistons which, in turn, apply force to the brake linings or pads in proportion to the amount of manual force being applied to the brake pedal.

It should be noted that hydraulic foundation brake assemblies (either drum or disc brakes) are sometimes used in air brake systems (commonly called air-over-hydraulic brake systems) with the hydraulic pressure produced by a hydraulic master cylinder which is powered by an air brake chamber.

One important characteristic of brake systems that effects the control modes used by ABSs to control wheel slip is the hysteresis [4] of both the service brake control systems and foundation brakes. In the case of service brake control systems, the hysteresis of concern is the time lag between the ECU signalling the modulator valve to release (reduce) or apply (increase) brake application pressure and the time at which that increased or decreased pressure is actually applied at the foundation brakes. This pneumatic hysteresis time lag can be up to several tenths of a second for an air braked system, but for a hydraulic brake system, this time lag is very short, usually less than one-tenth of a second.

The foundation brakes' hysteresis significantly affects ABS design. This hysteresis is characterized by the foundation brake's torque output not immediately falling in response to and in proportion to a reduction in brake application pressure. This is shown in Figure 1 for an air-actuated foundation brake. As is the case for service brake control systems, the hysteresis in hydraulic foundation brakes is much less than that of air-actuated foundation brakes.

The amount of deceleration that a braking vehicle can attain is dependent on three factors: the amount of brake torque that can be generated; tire-friction properties; and road surface friction characteristics.

The ability to generate braking torque is primarily dependent upon the size of the foundation brake components used (i.e., brake drums, linings, and actuating chambers or pistons) and the amount of hydraulic or pneumatic pressure delivered to these components. Brake system designers size systems to provide sufficient brake torque generating capability to lock (or come relatively close to locking) the brakes (wheels) on the vehicle (except those on the steering axle) when it is loaded with the maximum weight it is designed to carry and when operating on all types of road surfaces. It is necessary to provide such brake torque generating capability if a vehicle is to have adequate stopping distance performance when it is fully loaded.

Most heavy trucks built today can thus generate sufficient brake torque to lock (or come relatively close to locking) all their wheels (except those on the steering axle) on all road surfaces at all loading conditions. If a brake is ''big'' enough to lock a wheel, the issue of stopping capability of that wheel then focuses on tire properties and not the brake since, in effect, any further increase in braking torque cannot be utilized. The limit of tire traction in such a case determines the maximum capability of each wheel (brake) to contribute to the vehicle's stopping ability.

For passenger cars, maximum loaded weight includes the empty weight of the vehicle, up to as many as six adult passengers, assorted luggage or cargo, and a full tank of fuel. For a heavy truck, maximum loaded weight includes the empty weight of the vehicle, typically one or two passengers, a full load of fuel, and the maximum weight of cargo that can be carried in the truck. The ratio of loaded to empty weight for passenger cars is generally in the range of 1.5 to 1 or less. For heavy vehicles, especially combination-unit trucks, this ratio can exceed 3 to 1.

Standard design practice in the U.S. is to use fixed brake force distributions on heavy vehicles (i.e., a brake force distribution that does not change with axle load changes). The

[1] Much of the discussion which follows is adapted from *U.S.* v. *General Motors Corp.*, 656 F.Supp 1555, 1562–1566 (D.D.C. 1987,), ''The Anatomy of a Tractor Trailer Jackknife'' by Richard Radlinski, Vehicle Research and Test Center, National Highway Traffic Safety Administration, and ''Antilock Systems for Air-Braked Vehicles'' by William A. Leasure, Jr. and Sidney F. Williams, Jr., National Highway Traffic Safety Administration, SP–789, Society of Automotive Engineers, Inc., February 1989.

[3] A vehicle's brake system includes both the service brake system which the driver uses to slow or stop the vehicle, and the parking brake system which the driver uses to hold the vehicle stationary while unattended. The notice only addresses the service brake system and does not discuss parking brake system performance.

[4] Hysteresis is:

1. the time lag exhibited by a body in reacting to changes in the forces affecting it, and

2. the phenomenon exhibited by a system in which the reaction of the system to changes is dependent upon its past reactions to change.

force distribution is established by selecting particular ''size'' or torque capacity brakes for each axle. Because load distribution is so variable on heavy vehicles, a fixed brake balance is a compromise and cannot be expected to provide high braking efficiency (i.e., high braking rates without locking wheels) under all conditions. Generally speaking, heavy vehicle brakes are balanced for the fully loaded, low deceleration stop. This results in too much braking at the rear axle(s) when the vehicles are empty.

Heavy vehicles have a comparatively much greater propensity for brake-induced wheel lockup than passenger cars for two reasons. The first is the much less than optimum brake force distribution in the lightly loaded and empty load conditions, which leads to rear wheel lockup under such conditions. The second is the difference in loaded to empty weight ratio and the resulting difference in brake sizing. Since a heavy vehicle's brakes must be sized for the fully loaded condition, such a vehicle tends to be very overbraked when it operates lightly loaded or empty or when it operates on a slippery, low friction road surface. Under either of these operating conditions, and especially when both conditions exist, it is very easy for the driver to inadvertently lock some or all of the vehicle's wheels, even when making only a moderate or light brake application.

3. Tire/Road Friction

Ultimately, the retarding (braking) forces at the tire/road interface, that result from the braking torque that is applied to the vehicle's wheels, are transmitted to the road surface at that interface. Tire and road surface friction properties that affect these forces are significant factors in determining the amount of deceleration that the vehicle can achieve. In fact, the forces and moments[5] that the vehicle's tires are capable of generating at the tire/road interface are not only the only means by which a driver is able to control the velocity of the vehicle (not only slowing and stopping the vehicle by applying the brakes, but also accelerating the vehicle by actuating the accelerator), but they are also the only means by which the driver is able to control the direction and path of a vehicle by turning the steering wheel.

These forces and moments result when the driver turns the steering wheel, applies the brakes and/or actuates the accelerator and are reactions to the inertial forces[6] and moments[7] that act on the vehicle. Therefore, in order to understand those factors that influence the control and stability (and the loss thereof) of a vehicle, it is necessary to understand how tires generate those forces and moments.

Tire-road friction is an interaction between the tire and the road resulting in reaction forces and moments acting in the plane of the road at the tire-road interface. Reaction forces and moments result from control inputs (e.g., braking, accelerating, steering) and/or external disturbances (e.g., wind, road geometry and condition, etc.). The direction and magnitude of the resultant reaction forces and moments are determined by these inputs.

Before discussing these tire-road friction properties, several terms need to be defined. In order to understand the conditions under which a tire generates forces at the tire-road interface, the axis system used to define a tire's operating condition needs to be defined.[8] First, the position of the tire is defined by the wheel plane, the road plane, and the center of tire contact. The wheel plane is the central plane of the tire, normal (perpendicular) to the spin axis, which is the axis of rotation of the wheel (tire). The road plane is the plane of the road surface. The center of tire contact is the intersection of the wheel plane and the vertical projection of the spin axis of the wheel onto the road plane. The axis system is then defined as follows:

1. The origin of the tire axis system is the center of the tire contact.

2. The X′ axis is the intersection of the wheel plane and the road plane with a positive direction forward. The X′ axis defines the longitudinal[9] axis of the tire and is positive in the direction in which the tire is pointed.

3. The Z′ axis is perpendicular to the road plane with a positive direction downward. If the road surface is flat and level, the Z′ axis is vertical.

4. The Y′ axis is in the road plane, its direction being chosen to make the axis system orthogonal and right-handed. The Y′ axis defines the lateral[10] axis of the tire and is perpendicular to the direction in which the tire is pointed and positive to the right when looking in the direction in which the tire is pointed.

With this axis system as a basis, the tire angles which affect the forces and moments generated by a tire are defined as follows:

1. Slip angle is the angle between the X′ axis and the direction of travel of the center of tire contact. In simple terms, the slip angle is the angle between the direction in which the tire is pointed and the direction in which the tire is moving.

2. Inclination (camber) angle is the angle between the Z′ axis and the wheel plane. In simple terms, the inclination angle is a measure of how far the top of the tire is tilted to one side or the other when looking in the direction in which the tire is pointed.

The other important operating condition of a tire is that which produces braking and driving forces. This condition, which is referred to as longitudinal slip in the SAE terminology, is also called percent slip, wheel slip, or simply, slip. Throughout this notice, the term wheel slip is used and is defined as: the ratio of the longitudinal slip velocity to the spin velocity of the straight free-rolling tire, expressed as a percentage, where:

1. the longitudinal slip velocity is the difference between the spin velocity of the driven or braked tire and the spin velocity of the straight free-rolling tire, with both spin velocities measured at the same linear velocity at the wheel center in the X′ direction,

2. the spin velocity is the angular velocity of the wheel on which the tire is mounted, about its spin axis, and

3. the straight free-rolling tire is a loaded rolling tire operated without application of driving or braking torque moving in a straight line at zero inclination angle and zero slip angle.

It should be noted that wheel slip is sometimes expressed as the ratio of the difference between the velocity of the wheel center and the velocity of a point on the tread of the tire that is not in contact with the road to the velocity of the wheel center. Using this definition, a free-rolling tire operates at a small amount of wheel slip, usually less than 1 or 2 percent, due to the rolling resistance of the tire. Throughout the preamble, the definition of longitudinal slip given above is used.

The final terms that need to be defined are those that describe the forces and moments generated by the tire. Tire force is the external force acting on the tire by the road. Longitudinal force is the component of tire force in the X′ direction, i.e., in the direction which the tire is pointed. Braking force is the negative longitudinal force resulting from braking force application. Lateral force is the component of tire force in the Y′ direction, i.e., perpendicular to the direction the tire is pointed. Normal force is the component of tire force in the Z′ direction. Vertical force is the normal reaction of the tire on the road which is equal to the negative of the normal force. Braking force coefficient, mu_X, is the ratio of the braking force to the vertical load. Lateral force coefficient, mu_Y, is the ratio of the lateral force to the vertical load.

With these definitions as a basis, the following discusses the forces and moments generated by a tire, how those forces are affected by wheel slip, and how those forces influence a vehicle's control and stability.

Tire-road traction properties determine the maximum limits of forces and moments which can be developed at the tire-road interface at given operating and environmental conditions. They also affect tire force and moment slip characteristics, i.e., relationships between lateral tire force and slip angle (and camber angle);[11] and

[5] A moment, or the moment of a force, is a torque, and is a measure of the tendency of that force acting on an object to produce torsion and rotation of that object about an axis.

[6] Inertial forces are those forces occurring within an object that resist the tendency of external forces on the object to accelerate the object. They are defined by Newton's Second Law, which basically states that an object at rest tends to remain at rest and an object in motion tends to remain in motion, and are equal to the mass of the object times its rate of acceleration.

[7] Inertial moments are those moments occurring within an object that resist the tendency of external moments on the object to accelerate the rotation of the object. They are also defined by Newton's Second Law and are equal to the moment of inertia of the object times its rate of rotational acceleration.

[8] The following definitions are based on those which appear in ''SAE J670e—Vehicle Dynamics Terminology, Society of Automotive Engineers, Inc. July 1976. The reader is referred to that document for a more complete description of these terms.

[9] Similarly for the vehicle, the vehicle's longitudinal axis, direction, is the direction in which the vehicle is pointed.

[10] Similarly for the vehicle, the vehicle's lateral axis, direction, is perpendicular to the direction in which the vehicle is pointed.

[11] Throughout the remainder of this discussion, the effects of camber angle are not addressed, and

braking or driving torque and wheel slip. These properties have a substantial effect on a vehicle's dynamics and its control and stability characteristics.

a. Braking (Longitudinal) Friction

Application of braking torque inputs to a wheel, rolling at zero slip and camber angles, results in a longitudinal force acting parallel to the wheel plane in a direction opposite to the direction of wheel motion. Longitudinal reaction force is modified by the rolling resistance of the tire which increases braking force.

As the braking force at the wheel is increased, slippage will occur between the tire and the road surface. To generate slippage, the rotational speed of the tire must be less than the speed of the wheel center and, therefore, the vehicle. This slippage between the tire and road surface is the longitudinal slip defined earlier.

Longitudinal friction properties of tires have been measured and tabulated for numerous combinations of tire/load/road/environmental conditions in the form of mu_X-slip curves. (This type of data is quite prevalent in the public domain for passenger car tires while similar data for truck tires are sparse.)

The braking force that a tire is capable of developing varies with wheel slip in accordance with the typical curve shown in Figure 2. The shape of the mu_X-slip curve illustrates the classic features of longitudinal force generation. The braking or longitudinal force is zero when the tire is free rolling, reaches a peak at about 10–20 percent slip and then falls off to a somewhat lower level when the tire is operating at 100 percent slip, i.e., fully locked (sliding).

The initially steep increase of longitudinal force with increasing slip reflects the circumferential elasticity of the tire's carcass and tread structure. As the brakes are applied with increasing amounts of torque, the elastic capability of the tire in the footprint area is exceeded and sliding begins to take place at the rear of the footprint. Beyond the elastic region, the force output reaches a peak as all of the tread elements traversing the contact patch begin to slide relative to the roadway. Beyond peak friction, any increase in brake torque causes sliding across the entire footprint and the tire rapidly goes into full lockup. In this regime, frictional coupling between the tire and road degrades due to rubbing speed and heating effects, hence, the characteristically negative slope at high slip level.

The shape of this curve (see Figure 3) is dependent upon the tire characteristics and the road surface properties. Typically, the peak is relatively high on dry roads but tire force fall-off is small. On wet roads, the peak is lower and the fall-off as the wheel locks is much greater.

Another form of hysteresis that affects ABS design is related to the braking force versus wheel slip characteristics. As both the peak and slide coefficients of friction become lower on more slippery road surfaces, the time necessary for a locked (or nearly locked) wheel to spin up to near the vehicle's velocity increases. This results from the reduced force generating capability of tires on low friction road surfaces together with mass of the rotating components that include the wheel. On the drive axles of heavy vehicles, this mass, which includes the tire, wheel, axle assembly and axle differential components, can be great enough to require more than one-half second for a locked wheel to spin up to the vehicle's speed on very slippery road surfaces such as ice.

For pneumatic tires, the magnitude of the braking force is dependent upon tire construction properties, tread depth, amount of loading, wheel speed (velocity), the type and condition of the road surface and the amount of slippage between the tire and the roadway. With regard to maximum braking capability, the pertinent features of the mu_X-slip curve are the peak value of braking force coefficient, the peak coefficient of friction, and the slide value under the locked-wheel condition at 100 percent slip, the sliding coefficient of friction.

In the preamble of this notice, the terms skid number and peak friction coefficient (PFC) are used. These terms represent the results of a test to determine the longitudinal friction characteristics of a road surface using a specific test procedure, the American Society for Testing and Materials (ASTM) Method E1337–90 procedure, a specific tire, the ASTM E1136 SRTT tire, and a specific test device, an ASTM traction trailer. Skid number is the result of the ASTM test which characterizes the slide value of the friction coefficient between the ASTM tire and the road surface being measured. The peak friction coefficient, PFC, is the result of the ASTM test which characterizes the peak value of the friction coefficient between the ASTM tire and the road surface being measured.

The friction force potential of truck tires is significantly less than that for car tires. The difference is due primarily to the rubber compounding used to achieve the high tread life typically achieved with truck tires and the higher pressures in the tires that result in higher footprint loading. The braking performance of any vehicle is ultimately limited by its tire properties. Thus, given current truck tire properties, heavy vehicles cannot perform as well as passenger cars in braking situations even if they have braking systems that are 100 percent efficient (i.e., a braking system that would utilize all of the available tire/road friction).

b. Cornering (Lateral) Friction

In addition to braking forces, tires must also generate lateral—or cornering—forces to direct the vehicle in accordance with steering inputs from the driver or in response to other lateral forces such as crosswinds.

Tire friction characteristics in cornering are described by the relationship between lateral force coefficient and slip angle.

The lateral force that an unbraked tire is capable of developing varies with slip angle in accordance with the typical curve shown for the free rolling tire in Figure 4. The single most important feature of the force generating capability of a tire, as it relates to vehicle control and stability, is the ability of a rolling tire to generate forces perpendicular to the tire's direction of travel.

c. Combined Braking/Cornering Friction

When braking a vehicle, it is necessary to generate both braking and cornering forces at the wheels if the vehicle is to be stopped without deviating from its intended path. The situation is identical when a driver must brake severely while negotiating a curve or lane change where cornering forces are required to keep the vehicle from sliding towards the outside of the turn while the braking forces decelerate the vehicle.

In braking-in-a-curve maneuvers, tire friction properties are determined primarily by the peak and slide values of the resultant braking-cornering coefficients. Figure 4 shows the lateral force coefficient versus slip angle relationships for a free rolling tire and for a braked tire at different amounts of wheel slip, including 100 percent (locked wheel condition). All of the curves converge at a slip angle of 90° as expected, since the tire is perpendicular to the direction of travel.

At small slip angles, the lateral force capability under locked wheel conditions is much lower than that of a free-rolling wheel. It should be noted that although this figure shows that the tire is capable of generating lateral force in the locked wheel, 100 percent wheel slip condition, this force is ''lateral'' in relation to the tire itself. In this situation, the only force generated by the tire is opposite to its direction of travel, and its ''lateral'' component results from the tire's being steered away from its direction of travel. This locked wheel, ''lateral'' force is basically equal to the sliding coefficient of friction of the tire times the vertical load on the tire times the sine of the slip angle.

Lateral is a relative term whose meaning depends upon the object or direction to which it relates, i.e., lateral in relation to the vehicle is not the same as lateral in relation to a tire steered relative to the vehicle, and is also not the same as lateral with respect to the vehicle's direction of travel.[12] Earlier in this notice and in the previous notices related to this Final Rule, the phrase lateral stability has been used to describe whether or not a vehicle can resist yawing or spinning in response to some external lateral force acting on the vehicle. As long as the vehicle's direction of travel is the same as or very close to the direction in which the vehicle is pointed no significant confusion results. However, once a vehicle has begun to yaw or spin and its direction of travel is significantly different than the direction in which the vehicle is pointed, confusion can result regarding the meaning of lateral stability and lateral tire forces. To eliminate any confusion, the term directional stability (or directional stability and control) will be used throughout the remainder of this notice in place of lateral stability (or lateral stability and steering control).

With respect to the tire forces related to a vehicle's directional stability and control, the phrase, ''stabilizing tire forces'' will be used to describe tire forces that act perpendicular to the vehicle's direction of travel, instead of

when discussing the operating condition of a tire, the camber angle is assumed to be zero.

[12] To eliminate confusion regarding the meaning of lateral, several technical terms are defined that will be used throughout the remainder of this notice.

the phrase ''lateral tire forces'' the meaning of which can be unclear relative to the vehicle's direction of travel. As indicated earlier, a tire's ability to generate such ''stabilizing tire forces'' is the single most important feature of the force generating capability of a tire, as it relates to vehicle directional control and stability.

The graph in Figure 4 can be used to illustrate how tire traction characteristics influence vehicle directional stability. For example, if a single-unit vehicle negotiates a cornering maneuver with the front wheels at 4° slip angle and the rear wheel at 3° slip angle, and the application of braking pressure results in 20 percent slip at the front tires while the rear tires become locked, the data indicate that the lateral force coefficient at the front would decrease from 0.55 to 0.25 while the corresponding decrease at the rear would be from 0.45 to 0.03. In this case, the lateral force capability at the front would be eight times greater than at the rear. Because of the greatly reduced stabilizing forces on the rear tires, they would no longer be capable of resisting the vehicle yaw induced by the forces on the front tires, and the vehicle would spin out.

Tire loading also affects the amount of slip which occurs at the various wheels on a vehicle. For example, weight is transferred from the inside to the outside wheels of a vehicle when it is driven around a corner. Therefore, the wheels on the inside of the vehicle will operate at a lighter tire load and hence, when generating the same braking force, will operate at a higher percentage of wheel slip than their counterparts on the outside of the vehicle. In tractor-trailer combinations, improper load distribution can produce unequal axle loadings between the tractor and trailer. If both the tractor and trailer brakes are applied equally, increased wheel slip will occur at the wheels which are carrying the lightest load. If the improper load distribution is severe enough, wheel lockup and skidding can occur at otherwise normally acceptable deceleration rates.

4. Vehicle Loss of Control

Heavy vehicles are likely to experience wheel lockups in maximum braking situations because of the friction properties of their tires and the less than optimal force distributions of their brake systems. Lockup of all of the wheels on one or more of a vehicle's axles, if not responded to by the driver, will usually result in either a loss of steering control or loss of the vehicle's directional stability.

a. Single-Unit Trucks

A single-unit truck behaves much like a passenger car when wheel lockup occurs. Figure 5 shows a simple single unit vehicle (car or truck) with only its front wheels locked. Such a vehicle, with only the front wheels locked and the rear wheels rolling, will experience a loss of steering control. The vehicle cannot be steered, but it is stable due to the stabilizing forces provided by the rolling rear wheels and does not tend to yaw or spin out.

Figure 6 shows a simple single unit vehicle (car or truck) with only its rear wheels locked. In this case, the vehicle will experience a loss of directional stability. It is very unstable and the slightest side force disturbance (i.e., lateral force due to steering, side slope or road crown, crosswind, unequal front axle braking, etc.) results in the vehicle yawing significantly or spinning out.

If all wheels are locked, the vehicle cannot be steered but is not as likely to spin.

b. Combination-Unit Vehicles

With combination-unit vehicles, the effect of wheel lockup is more complex but can easily be inferred from the simple single-unit vehicle case by treating each vehicle in the combination as a single-unit vehicle.

If the wheels on the steering axle lock, the vehicle, experiencing a loss of steering control, will travel essentially in a straight path, stable but unsteerable, as illustrated in Figure 7. Usually a driver immediately senses this condition and, if conditions permit, can modulate the brakes to allow the steering axle wheels to spin up and regain steerability.

If the trailer wheels lock, the trailer will experience a loss of directional stability and (if side force disturbances are present) will swing to the outside of the vehicle path, as shown in Figure 8. However, because trailer wheelbases are long in comparison to the tractor, this unstable yawing response is slower. Thus, a driver again, if conditions permit and if the driver is aware of the condition soon enough, may have time to modulate the brakes to spin up the trailer wheels and bring the trailer back in line. As a trailer becomes shorter, this possibility of correction becomes less likely.

If the tractor's drive axle wheels lock, the truck tractor will experience a loss of directional stability and the combination vehicle will begin to jackknife if a side force disturbance exists, as shown in Figure 9. When this occurs, the process usually becomes irreversible as the driver is unable to react fast enough to prevent total loss of vehicle control, particularly when the tractor has a short wheelbase. This instability condition is the one which a driver is least likely to be able to control.

As more units (and more articulation points) are added to the combination, the situation becomes more complex and the modes of instability increase in number.

5. The Need for Antilock

As mentioned earlier, the only means by which a driver is able to control the direction, velocity, and path of a vehicle is to apply steering, braking, and/or accelerator inputs to the vehicle which in turn result in forces and moments being generated by the vehicle's tires. A tire can only generate a limited amount of frictional force. As the tire is required to generate more force for braking, its capability to generate stabilizing force is reduced. Since the capability of a tire to generate both braking (longitudinal) and stabilizing (lateral) forces is determined by the amount of wheel slip at which the tire is operating, controlling wheel slip is the only means by which it is possible to have a tire generate a significant amount of longitudinal force to decelerate a vehicle while still maintaining the capability to also produce sufficient amounts of stabilizing force to steer the vehicle and to retain directional stability.

As illustrated earlier, when the wheel slip goes beyond the point at which maximum (peak) braking force occurs, the tire's stabilizing force capability drops dramatically, leading to a situation that can result in loss of vehicle control. By sensing and controlling wheel slip, an antilock system automatically reduces the amount of brake application pressure to prevent prolonged, excessive wheel slip which would compromise the vehicle's directional stability by reducing the stabilizing force capabilities of the vehicle's tires. An antilock system which operates in such a manner is referred to as a closed-loop system. The basic closed-loop control algorithm for an ABS is as follows:

1. The driver actuates the brake pedal (or treadle valve) resulting in an application of brake pressure to the vehicle's foundation brakes,

2. this generates brake torque at the vehicle's wheels that creates braking forces at the tire/road interface,

3. this results in wheel slip (as discussed above), the level of which is determined by the ABS by sensing the rotational speed of the vehicle's wheels,

4. if the amount of wheel slip is not within an ''acceptable'' range (which is determined by the ECU, based on a predetermined set of logic) the brake application pressure is adjusted to return the level of wheel slip to the acceptable range; i.e., if the level of wheel slip is excessive, the brake application pressure is reduced and if the level of wheel slip is too low, the brake application pressure is increased, but never to a level higher than that which results from the driver's actuation of the brake pedal (or treadle valve).

Vehicles equipped with ABS, operating in such a manner, usually have shorter stopping distances compared to the same vehicle without ABS, particularly on low mu surfaces.[13] An antilock system which controls the wheel slip at the level that results in the maximum amount of braking force at the tire/road interface maximizes a vehicle's stopping capability and also provides some directional stability enhancement. On the other hand, antilock systems which control wheel slip at levels below that which results in peak braking force generation will result in a greater degree of directional stability but provide lower levels of braking force resulting in longer stopping distances.

6. General Antilock System Operation

The following discussion addresses three different aspects of ABS operation. The first aspect discussed is the control strategies used by an ABS to monitor wheel rotational speed and adjust brake application pressure to control wheel slip at an individual wheel. The second relates to the various component configurations that are used to control the wheels on an axle or a tandem axle set. The third is the control strategies used to control the wheels on an axle or tandem axle set.

[13] A low mu surface is one that is relatively slippery and thus provides lower levels of braking force and poorer directional stability and control during braking. These surfaces, which are typical on wet roads, are also referred to as low coefficient of friction surfaces.

a. ABS Wheel Slip Control Strategies

The goal of an antilock system is to prevent wheel slip on the controlled wheels from exceeding that which provides a good compromise between providing near maximum levels of braking force and providing sufficient levels of stabilizing forces to assure that the vehicle will remain directionally stable without reducing the wheel slip below that which produces braking force which utilizes most of the friction (adhesion) that is available at the tire/road interface. Once wheel slip goes beyond the point which provides peak braking traction, both braking and cornering traction are reduced, as shown in Figure 10 for a truck tire cornering at an 8° slip angle.

Early mechanical antilock systems controlled slip by the use of an assembly at the wheel which contained an inertia disc that rotated freely with the wheel when brakes were not applied. Braking the wheel caused it to decelerate while the inertia disc tried to continue to rotate at the original speed, but was restrained by a triggering mechanism. This triggering mechanism controlled an air valve (modulator valve) which when activated, shut off air pressure to the foundation brake air chambers and exhausted pressure already in the chambers. When deceleration of the wheel exceeded about ''1g,'' the inertia of the disc generated enough force to trip the mechanism activating the modulator valve. As braking force decreased and the wheel speeded up, the force exerted by the inertia disc decreased, allowing the trip mechanism to deactivate the modulator valve, thus, reapplying the brakes.

Electronic antilock systems act in a manner similar to the early mechanical systems except they are more sophisticated as a result of their computational capability. With electronic systems, the mechanical wheel assembly is replaced by a wheel speed sensor and an electronic control module (ECU). Wheel speed sensors, which are located at the wheels or within the axle housings, constantly monitor wheel speed (or a component whose speed is proportional to the wheel speed) sending electrical signals to the ECU which are proportional to the wheel speed. The ECU determines wheel speed and changes in wheel speed (acceleration and deceleration) based on these signals.

The following discusses two basic control modes[14] used by electronic ABSs to control brake applications at a wheel in response to wheel speed sensor signals.

In the acceleration/deceleration threshold mode of operation, the ECU recognizes the rapid wheel deceleration that occurs as wheel slip exceeds the peak friction wheel slip (Figure 11), and electrically commands the modulator valve to reduce brake application pressure and, thus, brake torque. When brake torque decreases enough to cause braking force to be less than the friction force at the tire/road interface, the wheel stops decelerating and begins to accelerate. The rate of acceleration increases with the increasing friction associated with a reduction in wheel slip. When wheel slip falls to the level corresponding to peak braking force, the acceleration rate peaks and starts to decrease with wheel slip. The ECU senses this change in acceleration rate and commands the modulator valve to start increasing brake application pressure and the cycle repeats.

In the reference speed mode of operation, the ECU tracks wheel speed information which it uses to estimate vehicle speed. The antilock system uses this estimated speed to compute a ''reference speed'' which is less than the estimated speed by a preprogrammed factor. The reference speed is updated throughout a stop as illustrated in Figure 12. This figure also illustrates how the ECU in one manufacturer's 1970's system uses this reference speed as a cue to modulate the brake application pressure. When the brakes are applied as shown in the figure, the wheel starts decelerating. As wheel speed falls below the reference speed (point ''G–1''), the antilock system acts to reduce brake pressure. After brake pressure has been reduced long enough to allow the wheel speed to roll up to that of the reference speed (point ''G–2''), the antilock system acts to increase brake pressure. This cycle continues until the vehicle is stopped.

Today's antilock systems usually combine acceleration/deceleration threshold logic and speed reference logic in some fashion. Both are believed necessary to improve the efficiency of antilock systems to account for the variance of tractor performance with surface (Figure 13), slip angle (Figure 14, vehicle speed (Figure 15), etc.

If an antilock system waits for the threshold deceleration associated with peak braking friction under some conditions, the ability of the wheel to provide cornering friction will have been compromised severely. Therefore, a threshold reference speed needs to be established around 30 percent to prevent excessive wheel slip.

Figure 16 shows a typical control cycle for one manufacturer's antilock system which uses a ''hold'' pressure phase, as well as a release pressure phase. This ECU uses two wheel slip thresholds (K1 and K2) and two deceleration thresholds (−b and b) in making decisions regarding control of the modulator. The ECU tracks the information from all of the vehicle's wheel speed sensors (even when the brakes are not applied) and uses this information to compute a reference speed which it continually updates. In the panic stop in Figure 16, the wheel decelerates until the wheel speed sensors indicate a deceleration which the vehicle cannot physically attain (point 1). At this point, the reference speed, which until this instant has corresponded to the wheel speed, now separates from the wheel speed and decreases according to an empirically determined rate of deceleration.

At point 2, the deceleration threshold −b is reached and the wheel runs into the unstable range of the traction curve. The wheel has exceeded the maximum braking force and any further increase in braking torque only increases wheel deceleration. Brake pressure is, therefore, quickly reduced and wheel deceleration falls after a short time. This deceleration time is determined by the hysteresis time lag between the time the modulator valve actuates to release the air pressure to the time that the air pressure in the air brake chamber, the hysteresis of the foundation brakes and the hysteresis related to the time needed for the wheel (and its associated rotating components) to spin up after it has been locked. Only after this delay does a further pressure fall also lead to reduction of wheel deceleration.

The deceleration signal −b is traversed at point 3 and brake pressure is held constant for a fixed time T1. Normally wheel acceleration will rise above the threshold +b at a point 4 within this holding time T1.

Provided this happens, brake pressure will continue to be held constant. (Were the +b signal not produced within the time T1, as with very low friction surfaces, then brake pressure would be again reduced in response to the slip signal. The time constant, T1, is determined for each vehicle/brake system based on the influences of the various kinds of hysteresis previously discussed).

During the constant pressure phase, the wheel accelerates in the stable slip range, the +b signal being traversed again at point 5 at which time utilized adhesion is just below the maximum on the traction curve. The +b threshold is used this time to signal a rapid pressure increase over time T2 to overcome brake hysteresis.

The time T2 is preprogrammed for the first control cycle and then recalculated for each subsequent control operation depending upon the response of the wheels. After this rapid pressure increase stage, brake pressure is raised again but at a lesser gradient by alternate pressure increase and hold pulses.

As a rule, the deceleration threshold −b is again reached during the pulsing phase at point 9, and brake pressure falls. The procedure repeats itself as long as the brake pedal is depressed too forcefully for the existing road conditions or until the vehicle speed drops below a specified value.

The logic presented here in principle is not fixed, but, matched by microcomputers to the dynamic response of the wheel under differing adhesion conditions. Not only are ABSs capable of ''adapting'' to various conditions by employing complex algorithms to control wheel slip, but they are also able to ''adapt'' the parameters of those algorithms, as with the T2 parameter discussed above, to improve the system's ability to control wheel slip over the broad range of road surface and vehicle load conditions under which heavy vehicles operate. One obvious result of this adaptability is the range of ABS cycle times, or controlling frequencies, that result when controlling wheel slip under various road surface and vehicle load conditions.

Figures 17 and 18 illustrate the effects of two very different situations of load and road surface conditions on the ABS cycle times and how an air brake ABS adapts its control of wheel slip. Figure 17 shows treadle valve pressure, and brake chamber pressure, wheel speed and ABS modulator solenoid activity

[14] The following discussion, which is largely based on the previously referenced Leasure and Williams SAE, paper specifically addresses ABS control modes for air brake systems. Similar control strategies are used in hydraulic ABSs with the specific parameters of the control modes differing due to differences in the brake torque versus brake pressure application characteristics of air and hydraulic brake systems.

for the left wheel of the intermediate drive axle for a full treadle application stop of a Freightliner 6×4 conventional truck tractor with a WABCO 6S/6M ABS in a lightly loaded condition on a very low friction surface, ice. The figure shows the first five ABS cycles for that stop. To characterize ABS cycle time, the ABS cycle is assumed to begin when brake pressure begins to rise in the brake chamber and that rising brake chamber pressure leads to excessive wheel slip or wheel lockup. This excessive wheel slip is sensed by the ECU which actuates the modulator valve to decrease brake chamber pressure to reduce wheel slip to an acceptable level. This ''initial'' rise in brake chamber pressure can result from an increase in the driver's level of brake application, i.e., rising treadle valve pressure, or from an increase resulting from the ECU signaling the modulator valve to increase brake chamber pressure. The ABS cycle ends when, after the reduction in brake chamber pressure resulting from actuation of the modulator valve, the brake chamber pressure begins to again rise in response to the ECU signaling the modulator valve to increase brake chamber pressure. For the five ''ABS cycles'' shown in Figure 17–a, the ABS cycle times range from 0.72 seconds to 0.80 seconds, i.e., an ABS controlling frequency of from about 1.2 to 1.4 cycles per second.

Two things shown in Figure 17–b are of note. The first is the time required for the wheel to lock after the initial brake application which is very short, about 0.04 seconds. The second is the time required for the wheel's speed to increase to that of the vehicle after the wheel has locked, i.e., the wheel's spin up time. The spin up times shown in Figure 17–b range from 0.20 seconds for the fourth ABS cycle (wheel spin up begins at about 3 seconds on the time scale) to 0.34 seconds for the first ABS cycle (wheel spin up begins at about 0.5 seconds on the time scale). The rate of wheel spin up can be characterized by the acceleration of the outer surface of the tire, i.e., the tread of the tire, relative to the wheel center. In the case of the wheel spin up during the first ABS cycle, the spin up time is 0.34 seconds and the change in wheel speed over that time is 11.3 mph; the wheel's acceleration is therefore 33.2 mph per second or 48.8 feet per second per second.

In contrast to the ABS cycle time and wheel spin up rates shown in Figure 17, Figure 18 illustrates a situation where the ABS cycle times are much shorter and the wheel spin up rates are much faster. Figure 18 shows treadle valve pressure, and brake chamber pressure, wheel speed and ABS modulator solenoid activity for the left wheels of the tandem drive axles for a full treadle application stop of a Volvo-GM 6×4 conventional truck tractor with a Bosch 6S/4M ABS in a lightly loaded or bobtail condition on what is believed to be a high friction surface. The reason for the uncertainty of the conditions under which this stop took place is that this data resulted from the monitoring and recording of ABS event occurrences during the agency's truck tractor fleet study and no details are available regarding the exact circumstances of this stop. However, given the high average deceleration rate of this stop, more than 16 feet per second per second which if sustained during a stop from 60 mph would result in a stopping distance of less than 240 feet, it is reasonable to assume that the surface had a rather high coefficient of friction. Given this and the low level of brake chamber pressure at which excessive wheel slip occurs, between 15 and 30 psi, it is reasonable to assume that the vehicle was lightly loaded and may even have been a bobtail situation.

It should be noted that the various data traces shown in Figure 18 are rough ''stairsteps'' during the first second of data. The reason for this is that the data monitoring/recording equipment used in the truck tractor fleet study used a data sampling rate of 10 samples per second while monitoring ABS activity. When an ''ABS braking event'' was detected the equipment began to use a data sampling rate of 50 samples per second. The equipment then stored the data for the one second prior to the ''ABS braking event'' at a 10 sample per second rate and for the entire ''event'' at a 50 sample per second rate.

With regard to the ABS controlling frequency shown in Figure 18, unlike the situation shown in Figure 17, the ABS cycles are not discrete cycles where the wheel goes to complete lockup and then the brake application pressure is reduced to zero. To estimate the ABS controlling frequency in this situation, an ABS cycle is characterized by a decrease in brake chamber pressure followed by an increase in brake chamber pressure where these pressures are less than the treadle valve pressure so as to be sure that the brake chamber pressure is being controlled by the ABS. Using this criteria, Figure 18–a shows that between two and three seconds on the time scale the brake chamber pressure goes through about 9 such ''cycles'', i.e., an ABS controlling frequency of about 9 cycles per second. This is more than 6 times faster than the fastest ABS controlling frequency shown in Figure 17–a for the stop on an ice surface.

With regard to the wheel spin up time for the stop shown in Figure 18–b, just after time equals 3 seconds, there is a large decrease in wheel speed for left rear drive wheel followed by a steep increase in speed of that wheel. This wheel speed increase is 7.3 mph and occurs over 0.06 seconds, i.e., a wheel acceleration of 121.7 mph per second or 178.4 feet per second per second. This is more than 3.5 times higher than the wheel acceleration rate for the ''ice'' stop shown in Figure 17–b. Since, as indicated earlier, hydraulic brake systems generally have much lower levels of hysteresis than air brake systems, everything tends to happen faster in hydraulic brake systems and, as such, the controlling frequency for hydraulic brake ABS can be significantly higher. The logic used in different systems also varies with the control strategy utilized and the number of wheel speed sensors.

A difficult task for air brake antilock systems, with regard to controlling slip, is the prevention of wheels going into ''deep cycles'' (wheel slips in the high wheel slip part of the friction curve where both braking and cornering friction are reduced). Deep cycles are particularly undesirable in the first cycle of an antilock system operation where the demand for cornering friction can be the highest because of the speed of the vehicle. The extent to which an antilock system goes into a deep cycle depends on how effectively the modulator controls air into and out of the air chambers. Figure 19 shows how a 1970's antilock system was not able to reduce the air pressure fast enough in a panic application to prevent some wheel lockup. The electronic antilock systems of today, because of the versatility of digital technology (and compatible pneumatic valving) have an expanded control range that provides for better air pressure control to respond to conditions and to prevent overpressurizing air chambers. This makes possible the reductions in deep cycling shown in Figure 20.

The hysteresis of foundation brakes can have significant effect on the ability of an antilock system to prevent ''deep cycles.'' Although an antilock system may quickly detect impending wheel lock and rapidly actuate the modulator valve to reduce the air pressure in the air chambers, the three types of brake system hysteresis discussed earlier may prevent an immediate reduction in brake torque and rapid spin up of the wheel causing deeper wheel cycles than desired. Figure 19 shows an example of how the inherent hystereses of the pneumatic components and foundation brakes of air brake systems, and the hysteresis related to wheel spin up times affect how quickly an ABS can respond to and control wheel slip. The effect of the pneumatic hysteresis can easily be seen in the release of chamber pressure portions of the ABS cycles. It takes from 0.08 to 0.22 seconds for the chamber pressure to decrease to 3 pounds per square inch, the chamber pressure at which wheel spin up begins for several of the ABS cycles. The effect of foundation brake hysteresis can not be estimated without data on the brake torque acting on the wheel. However, it may not be significant since this type of hysteresis is most significant at high brake chamber pressures. As shown in Figure 17, the hysteresis time lags related to wheel spin up range from 0.20 to 0.34 seconds. The ABS cycle times of up to 0.80 seconds shown in Figure 17, are the result of these properties of the foundation brakes and tires used on heavy vehicles today.

The inherent hystereses of the pneumatic components and foundation brakes of air brake systems and in the tire spin up rates of heavy vehicle wheel/tire assemblies have to be considered in the design of antilock systems. It also has to be recognized that different brake types/configurations can have different amounts of hysteresis. An antilock system which works efficiently with one type of brake may not work as efficiently with another type of brake.

b. ABS Single and Tandem Axle Component Configurations

Several types of ABS configurations are currently available for heavy vehicles. In order of decreasing complexity and cost, the systems for tractors include those with: (1) individual control of the wheels on an axle; (2) side-to-side control of the wheels on a tandem axle set; (3) axle-by-axle control of

the wheels on a tandem axle set; and (4) tandem control of all of the wheels on a tandem set. With individual wheel control, the most complicated and costly type of ABS, each of the wheels on an axle is individually monitored and controlled using wheel-speed sensors and modulator control valves for each wheel. This prevents lockup at each wheel and thus provides optimum stability and control, especially on a split mu surface.[15] With side-to-side control,[16] all of the wheels on one side of a tandem axle set are controlled together by one modulator in response to wheel speed sensor signals from one or more of those wheels. With axle-by-axle (or simply, axle) control, the wheels on an axle (either on a single axle or on each axle of a tandem axle set) are controlled together by one modulator in response to wheel speed signals from the wheels on that axle. With tandem control,[17] all four (or in some cases, six) wheels on a tandem (or tridem) axle set are controlled together by one modulator in response to wheel speed signals from the wheels on one or more of the axles in the tandem (or tridem) axle set.

ABS technology has improved dramatically in recent years given the use of computerized components. Unlike the antilock brake systems in the 1970s that primarily relied on an analog control technology, current generation antilock systems use advanced digital control technology that enhances the systems' efficiency. Digital logic permits the use of more complex and sophisticated control strategies and reduces the time lags in the antilock computer. More generally, digital technology applied to motor vehicles has been significantly refined in the last twenty years to control motor vehicle fuel systems so that vehicles can comply with fuel efficiency and pollution prevention regulations.

c. ABS Single and Tandem Axle Control Strategies

As discussed above, there are several different component configurations used to equip an axle or axles with ABS.

For each of the configurations for which more than one wheel is controlled by one modulator, different wheel slip control strategies can be used by the ABS to control wheel slip of those wheels. These are select low regulation (SLR), select high regulation (SHR), and modified select high regulation (MSHR), also called ''Select Smart'' (Bendix) or select low high regulation (SLHR).

The select low regulation strategy modulates the brake pressure application at both wheels of an axle at the same level based on the wheel speed signals from the wheel that experiences the higher level of wheel slip. On split mu surfaces, this control strategy results in near peak braking force on the wheel that experiences the higher level of wheel slip (the wheel that is on the lower friction side of the road) and less than peak braking force on the wheel with the lower level of wheel slip (the wheel on the higher friction side of the road). One wheel operating at a lower level of wheel slip and on a surface with a higher friction level means that wheel has a greater capability to provide additional stabilizing force; therefore, providing a higher level of directional stability and control for the vehicle. However, on split mu surfaces with the coefficient of friction on one side of the road surface being very different than on the other side, this can result in extended stopping distances since the wheel on the high coefficient of friction side is providing much less than the maximum level of braking force than can be provided by that surface.

The select high regulation strategy modulates the brake pressure application at both wheels of an axle at the same level based on the wheel speed signals from the wheel that experiences the lower level of wheel slip. On split mu surfaces, this control strategy results in lockup of the wheel that experiences the higher level of wheel slip, which results in that wheel providing less than peak braking force and near peak braking force on the wheel with the lower level of wheel slip. One wheel operating at a locked wheel condition means that wheel has essentially no capability to provide any stabilizing force, and the other wheel operating at a higher level of braking force (near the maximum available on the high friction side of the road) means that wheel would have a reduced capability to provide stabilizing force. This results in a reduced level of directional stability and control for the vehicle compared to the SLR strategy. However, on split mu surfaces with the coefficient of friction on one side of the road surface being very different than on the other side, SHR results in shorter stopping distances compared to the SLR strategy since the wheel on the high coefficient of friction side is providing near peak braking force.

The modified select high regulation strategy combines the SLR and SHR control strategies. At the beginning of a stop which results in excessive wheel slip at one wheel, the ABS controls wheel slip using the SLR strategy. While doing so, the ECU monitors the level of wheel slip on the wheel which has the lower level of wheel slip (the wheel on the high friction side of the road), and from that information, the ECU estimates the ratio of the coefficient of friction on the high friction side of the road to that on the low friction side. If this ratio exceeds a preset threshold and the vehicle speed is above a preset threshold, the ECU increases the brake application pressure to the wheels which increases the braking force provided by the wheel with the lower level of wheel slip (the wheel on the high friction side of the road) and which locks the wheel with the higher level of wheel slip (the wheel on the low friction side of the road). The ECU then begins to control wheel slip using the SHR strategy which results in a higher level of vehicle deceleration (shorter stopping distance) than would result from the use of the SLR strategy. However, as noted above, this results in a reduced capability of the both wheels to provide stabilizing forces, therefore reducing the vehicle's overall level of directional control and stability. Another feature of the MSHR strategy is that even when the vehicle velocity and ratio of coefficients of friction of the split mu surface thresholds are exceeded, the ECU does not immediately switch to the SHR control strategy to reduce the risk that the driver will be surprised by an unexpected steering wheel ''pull'' that can result in that control mode. Instead, the time period over which the system transitions from SLR to SHR control is adjusted based on the vehicle's velocity.

For the individual wheel control configuration in which each wheel is controlled by its own modulator, there are two wheel slip control strategies: independent regulation (IR) and modified independent regulation (MIR). As its name implies, the independent regulation control strategy controls the wheel slip of each wheel on the axle independently, allowing each wheel's ABS to modulate the brake application pressure to each wheel in response to the signals from the wheel speed sensor at that wheel to maximize braking forces while maintaining sufficient capability to produce stabilizing forces to ensure vehicle directional stability. Although this control strategy is the most effective at both minimizing stopping distance as well as ensuring vehicle stability, when used on the steering axle of trucks, truck tractors and buses, this can lead to significant steering wheel ''pull'' on split mu surfaces which can be difficult for the driver to control. Therefore, ABS manufacturers have developed the MIR control strategy in which the wheel slip is controlled using the SLR strategy at the beginning of the stop. This results in equal braking forces at each wheel which alleviates steering wheel ''pull'' that would occur on a split mu surface with IR control of the steering axle brakes. After a short period of time, the ECU smoothly transitions to true IR control so that the buildup of any steering wheel pull is gradual so that it can easily be controlled by the driver. NHTSA understands that MIR control strategy is used exclusively by all vehicle manufacturers on vehicles which have independent sensor/modulator ABS on the steering axle. It should be noted that the SLR strategy also eliminates the problem of steering wheel ''pull'' on split mu surfaces, but as indicated above does not provide as effective use of the friction available on the high friction side of such surfaces, resulting in longer stopping distances.

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[15] With a split mu surface, the road is divided along its length so that the wheels on one side of the vehicle are on a high friction surface and the wheels on the other side are on a low friction surface. One example of a split mu surface is when one portion of a lane is dry and another part is covered with ice.

[16] Side-by-side control ABS can have two different wheel speed sensor configurations. Either all of the wheels on the tandem axle set have their own wheel speed sensors, or only the wheels on one axle of the tandem axle set have wheel speed sensors.

[17] Tandem control ABS can have two different wheel speed sensor configurations. Either all of the wheels on the tandem axle set have their own wheel speed sensors, or only the wheels on one axle of the tandem axle set have wheel speed sensors.

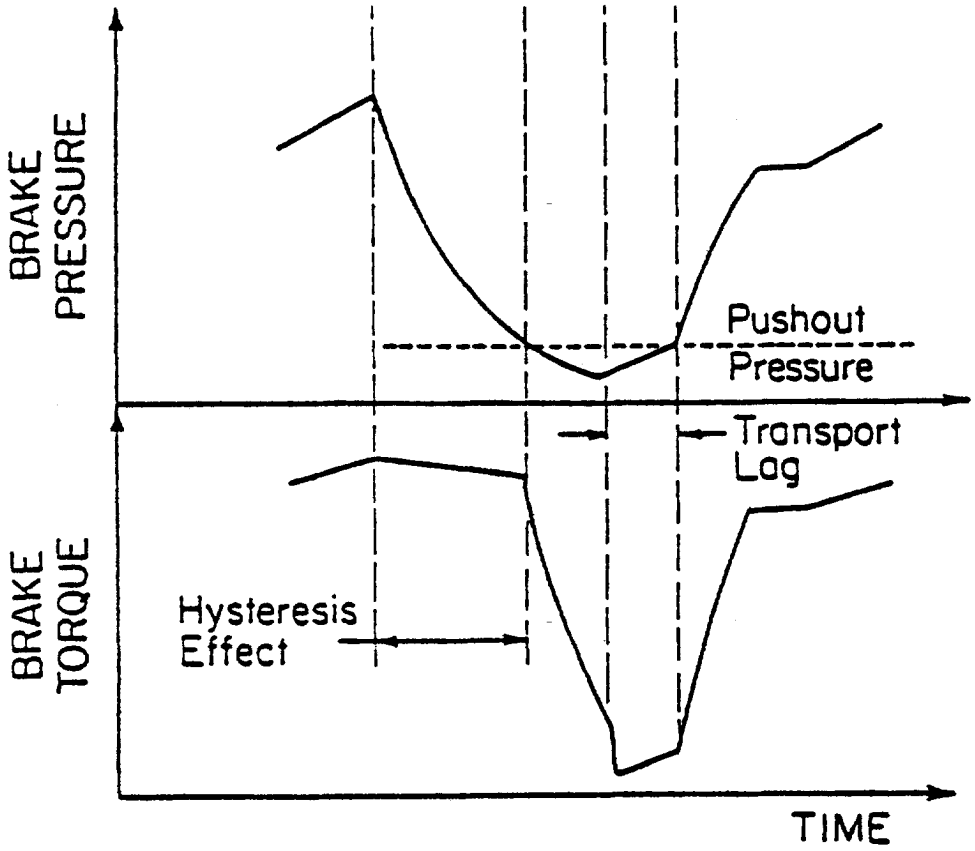


Figure 1 - Effect of Foundation Brake Hysteresis on Brake Torque vs. Brake Application Pressure

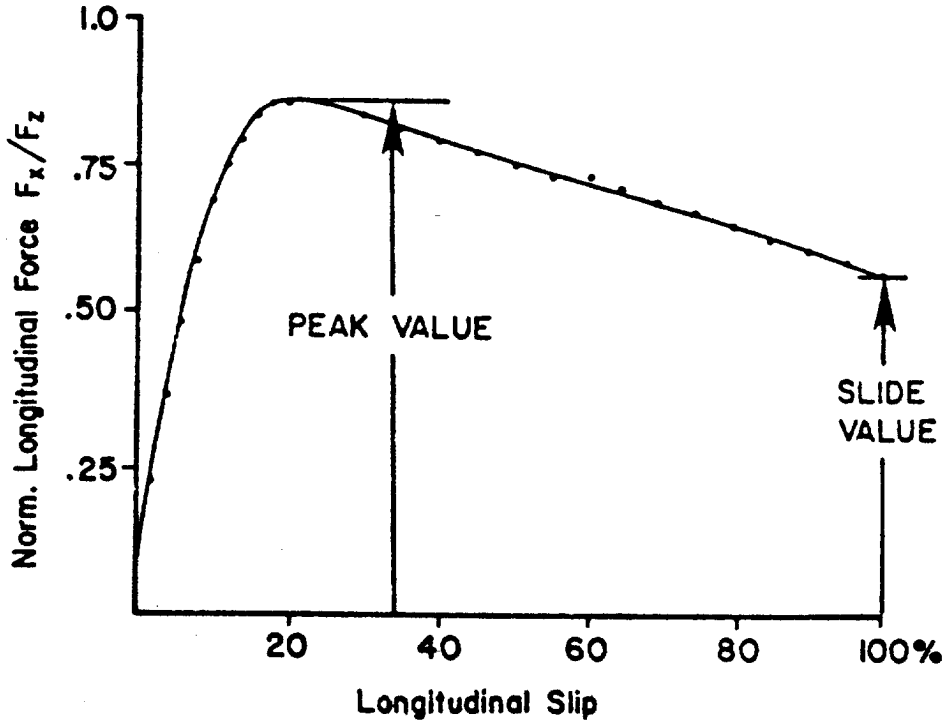


Figure 2 - Example Mu-Slip Curve

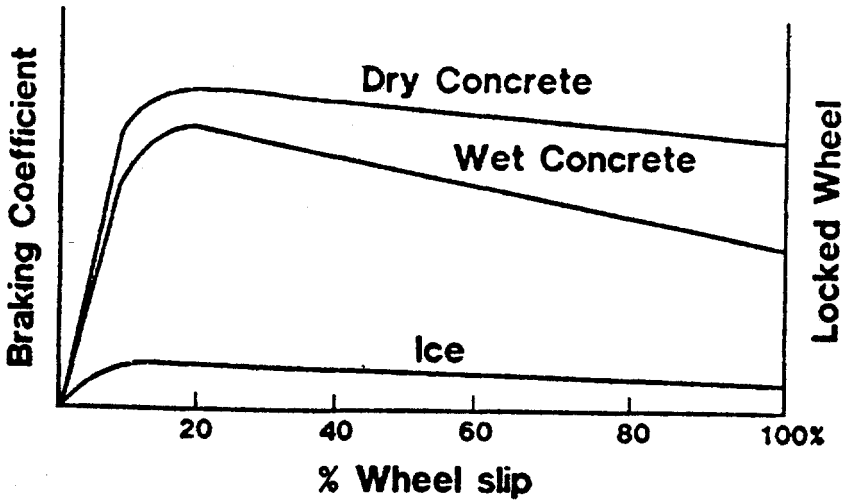


Figure 3 - Mu-Slip Curves
Dry Concrete, Wet Concrete, and Ice

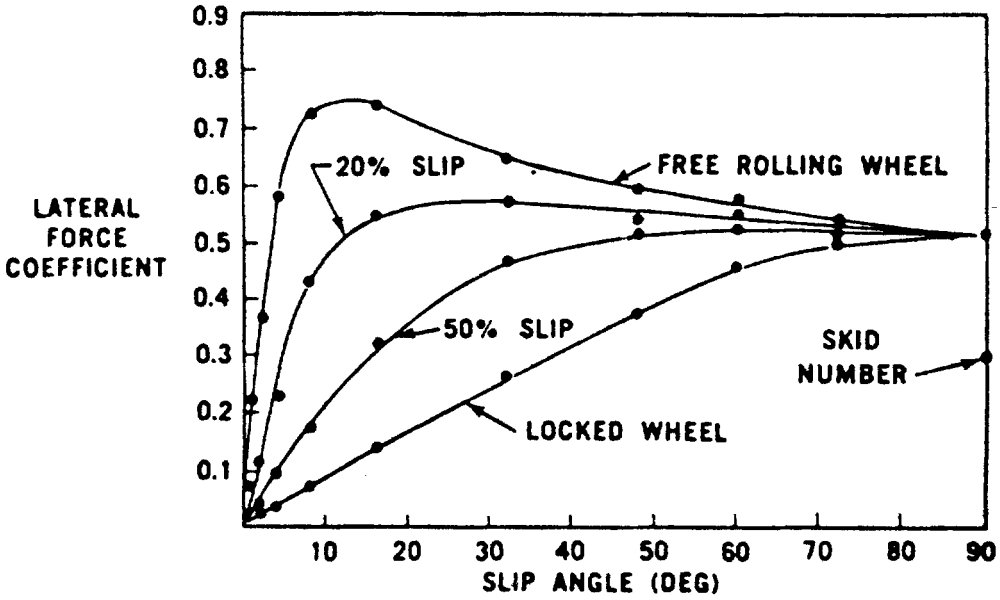


Figure 4 - Lateral Force Coefficient vs. Slip Angle
for a J78-15 Passenger Car Tire
Both Free Rolling and Braked Wheel
Skid Number 30 - Wet Road Surface

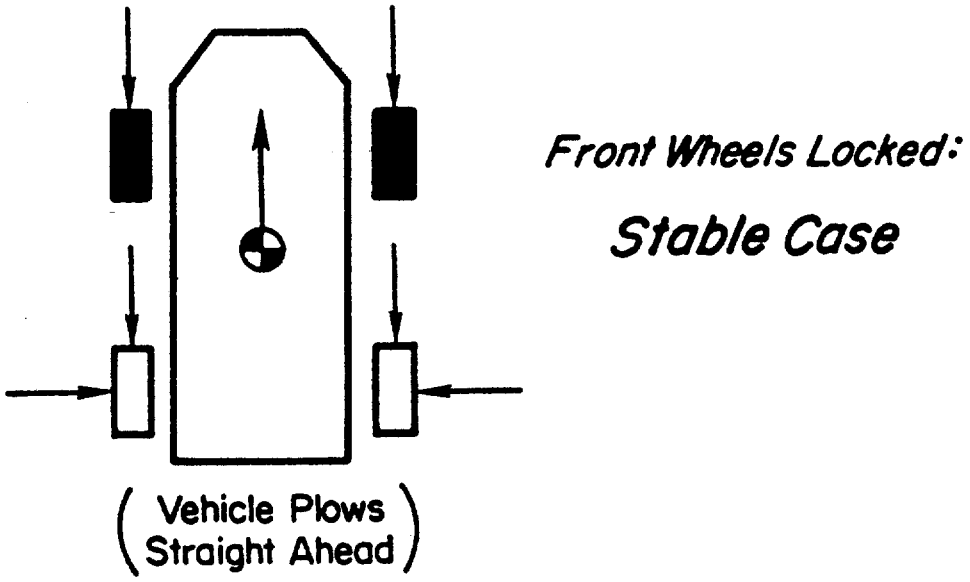


Figure 5 - Dynamics of a Single-Unit Vehicle
Front Wheels Locked - Stable Case

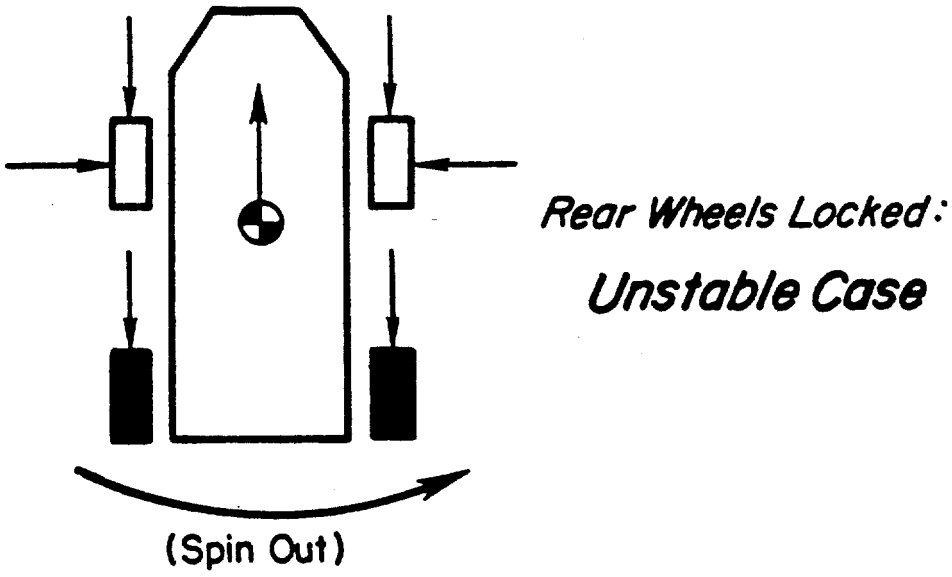
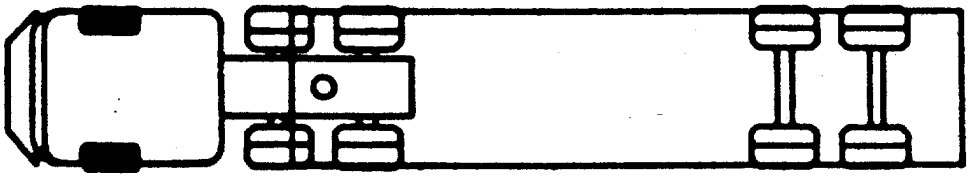


Figure 6 - Dynamics of a Single-Unit Vehicle
Rear Wheels Locked - Unstable Case

STEERING AXLE LOCK-UP



VEHICLE REMAINS DIRECTIONALLY STABLE

STEERING CAN BE RECOVERED

Figure 7 - Steering Loss

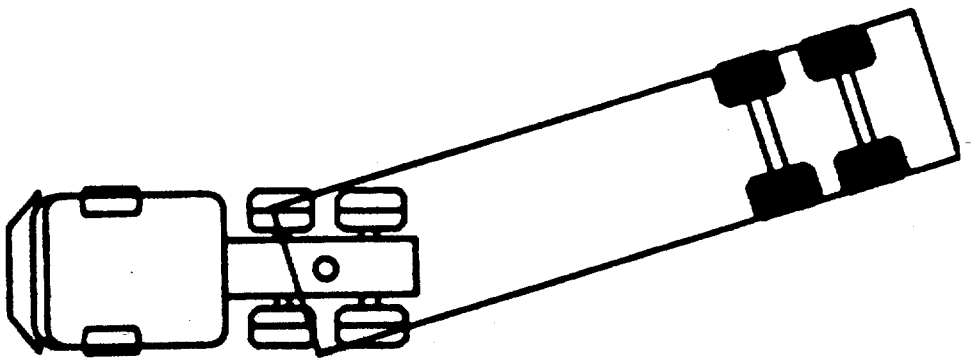


Figure 8 - Trailer Swing

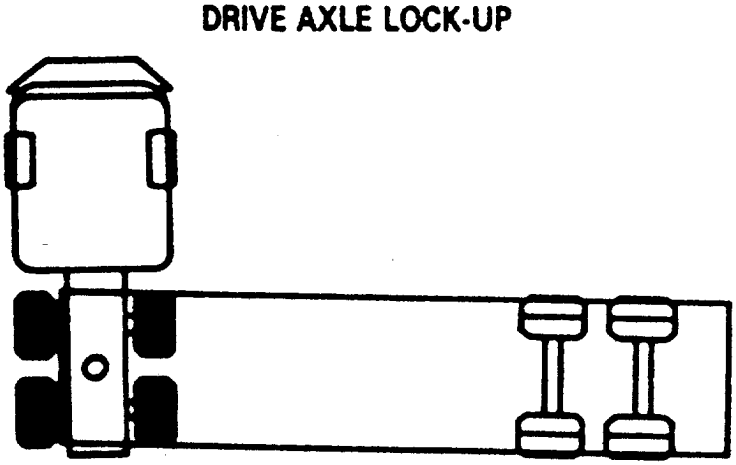


Figure 9 - Jackknife

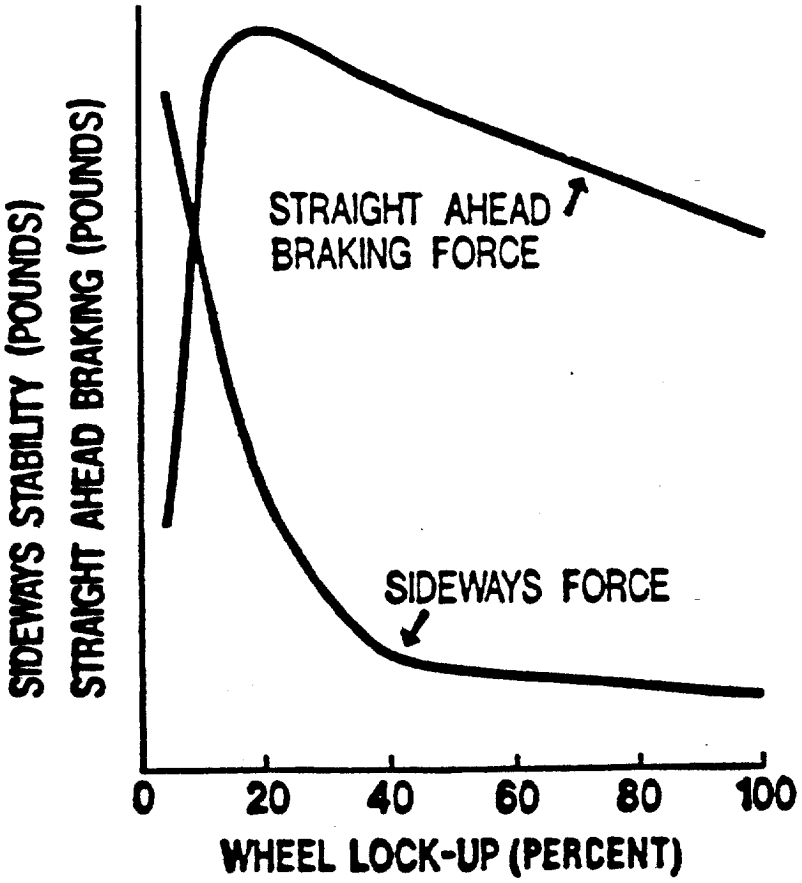


Figure 10 - Combined Tire/Road Friction Performance of a Heavy Truck Tire

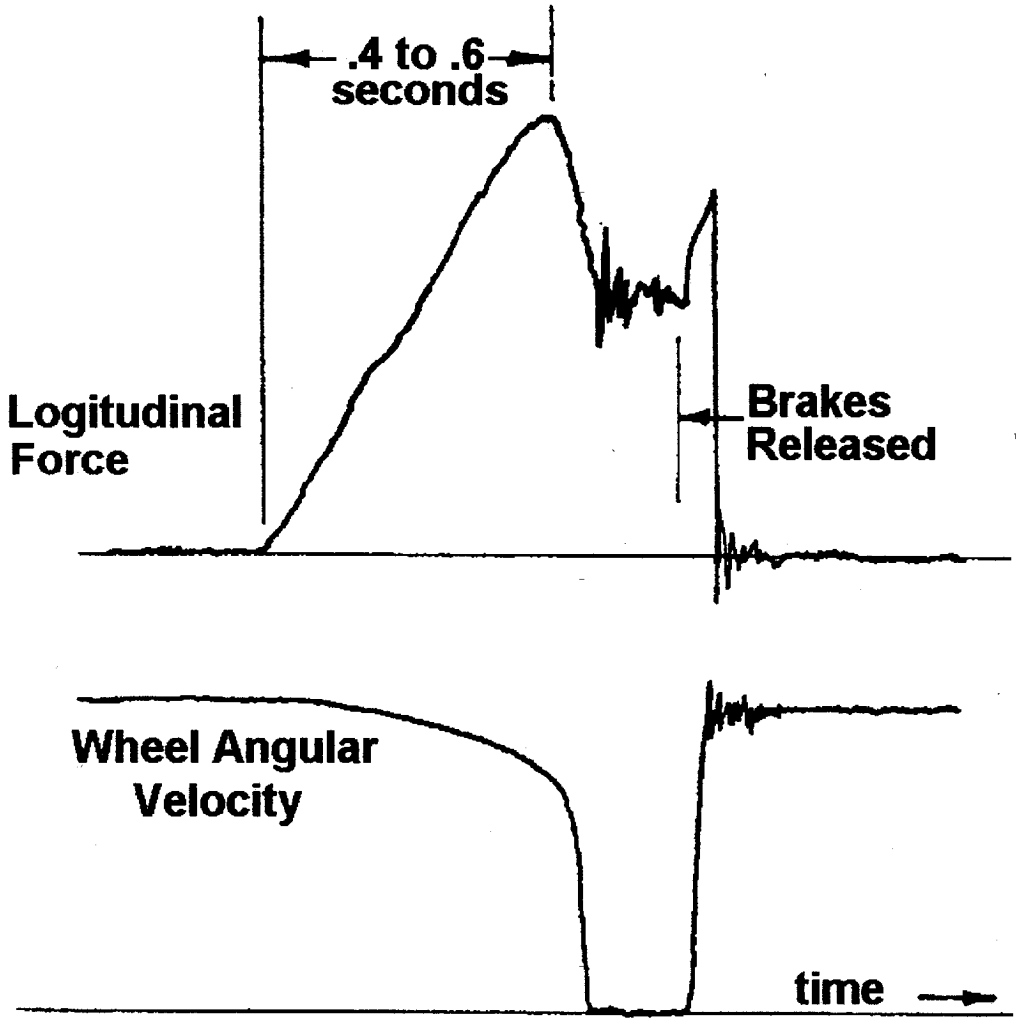


Figure 11 - Approximate Time Scale
of a Typical Lockup Cycle

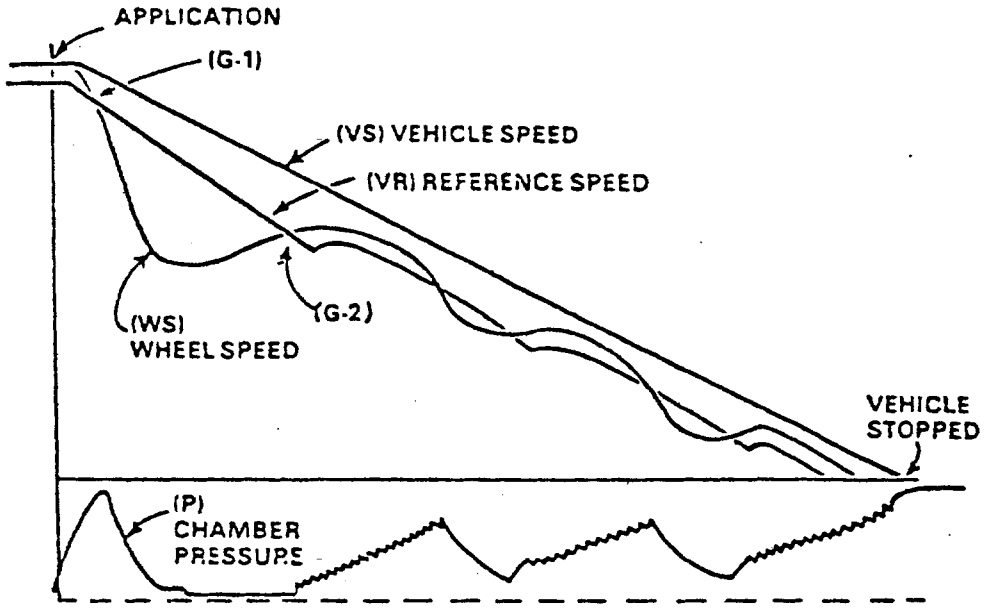


Figure 12 - Reference Speed Control Cycle

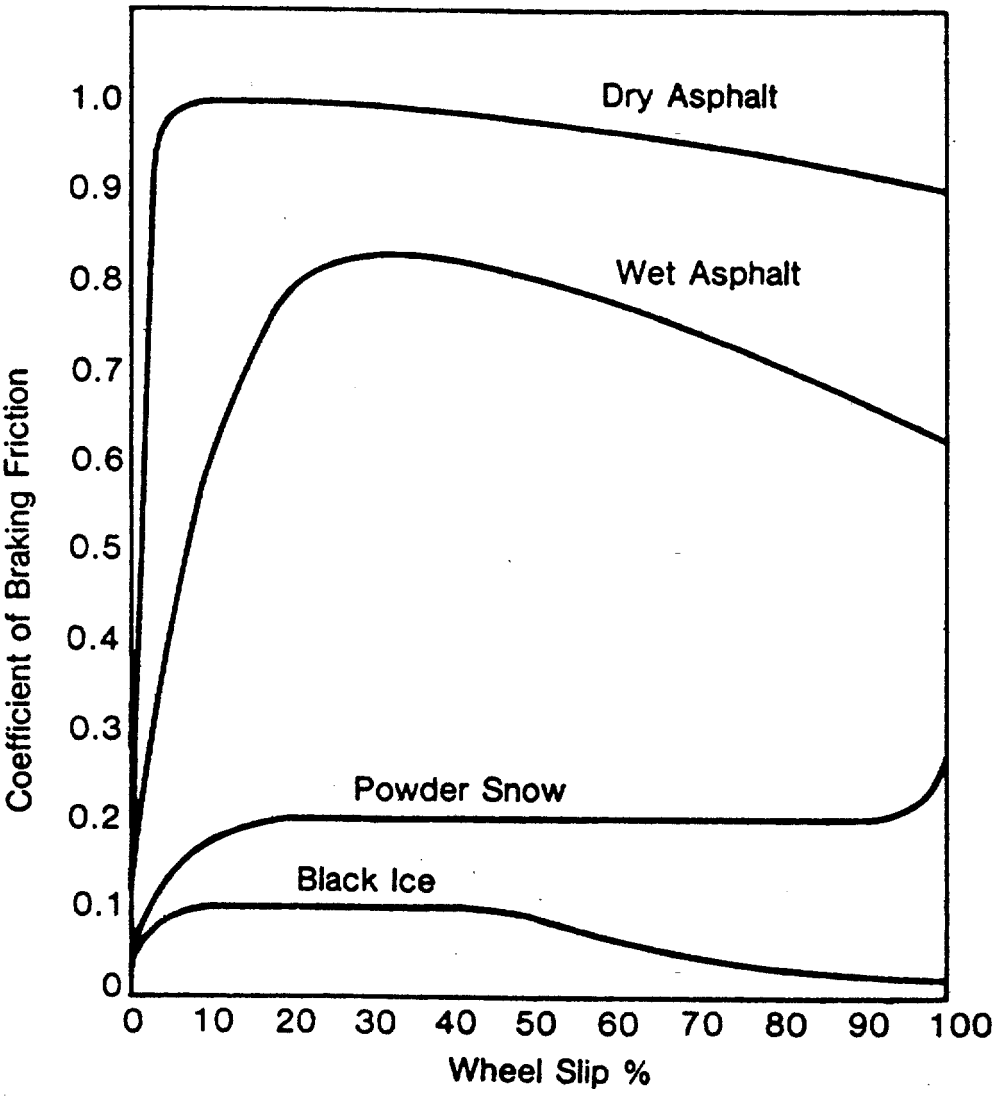


Figure 13 - Effect of Surface on Braking Friction

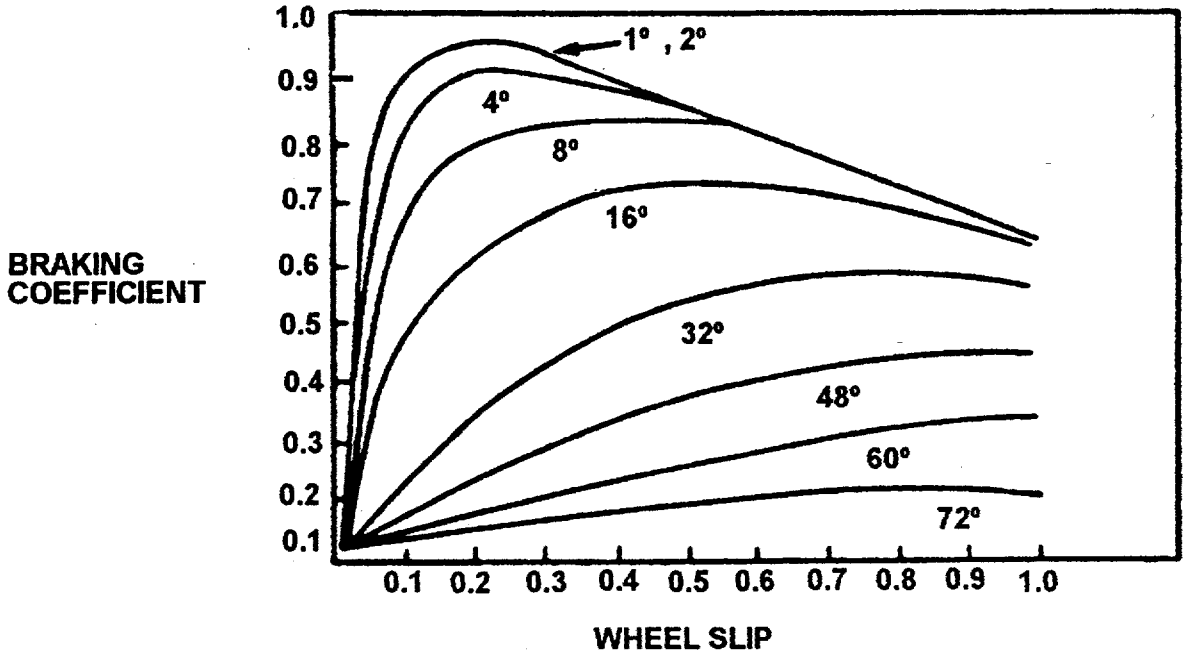


Figure 14 - Effect of Slip Angle on Braking Friction

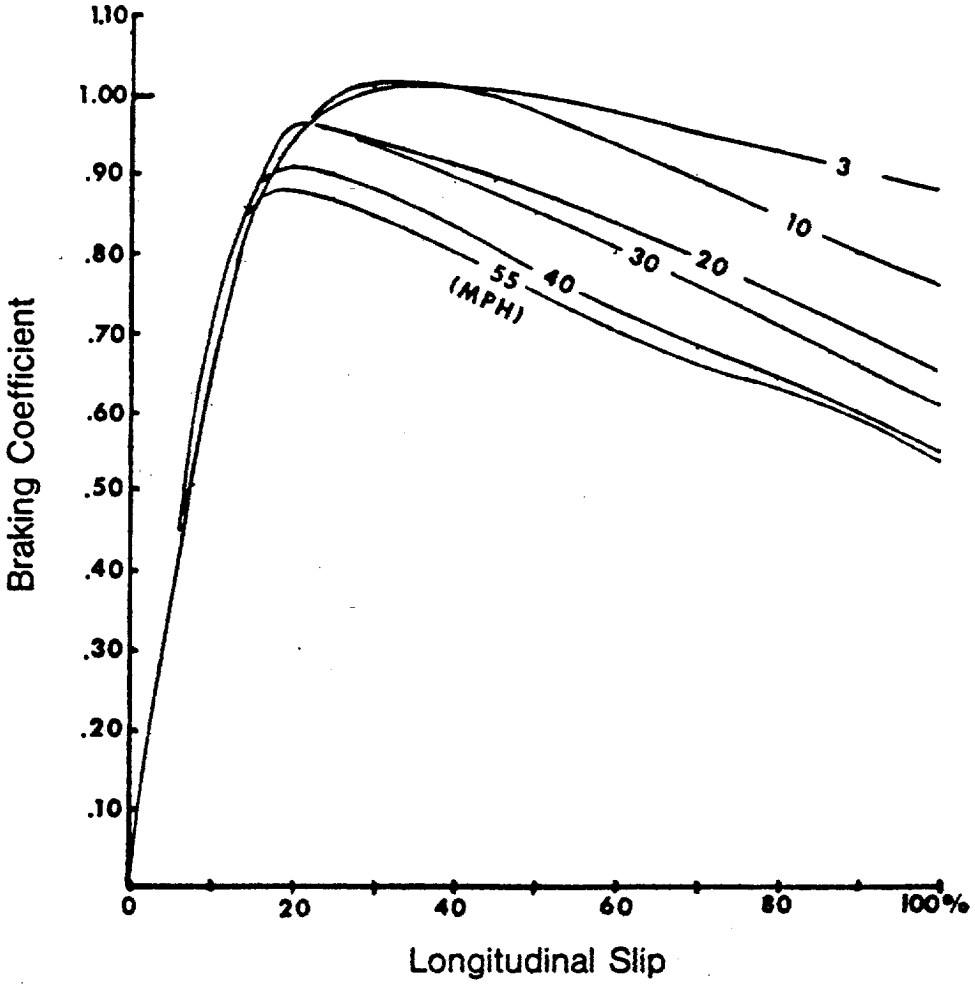


Figure 15 - Effect of Vehicle Speed on Braking Friction

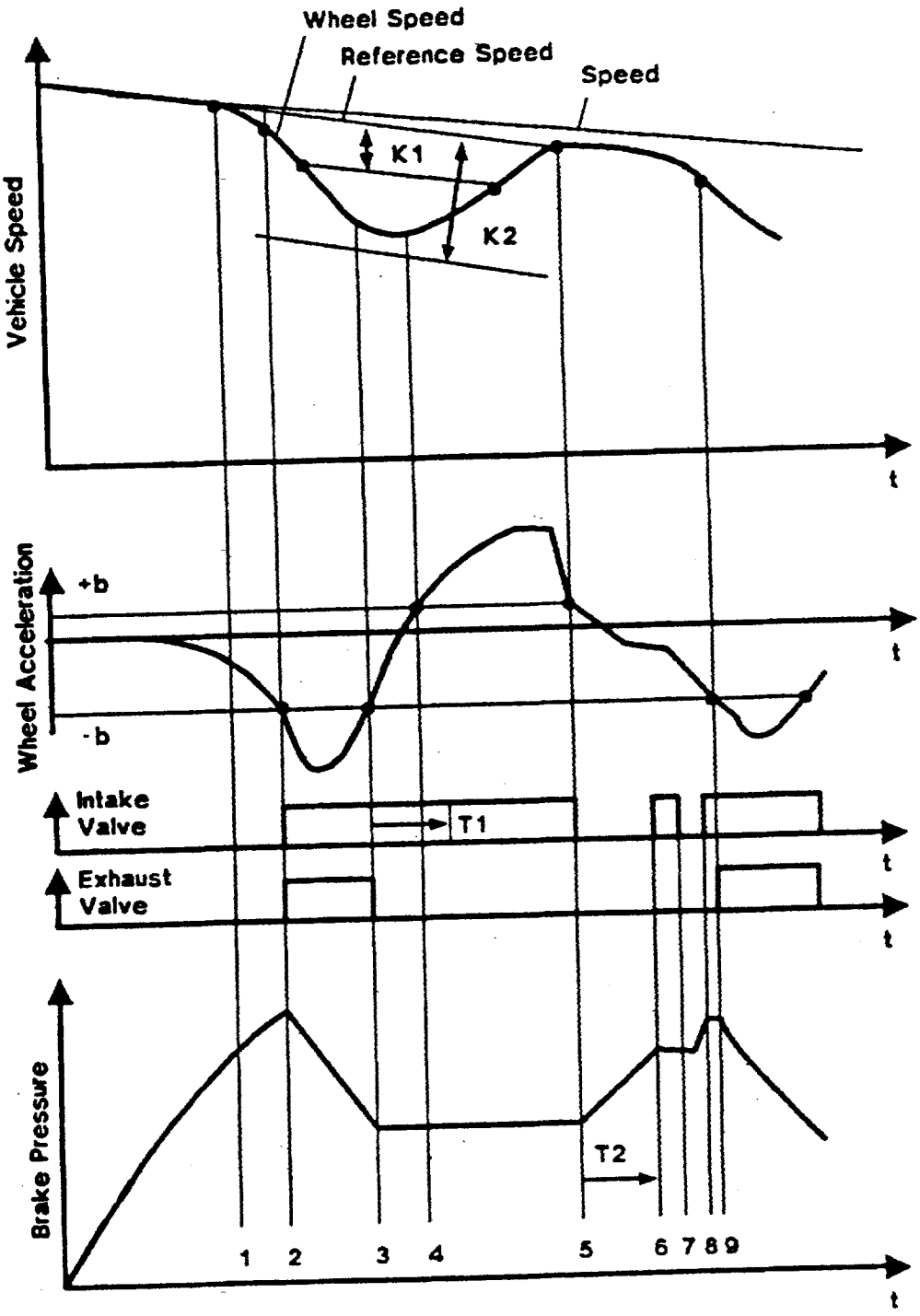


Figure 16 - An Antilock Control Cycle

Figure 17-a
Brake Chamber Pressure, Treadle Valve Pressure and ABS Modulator Activity

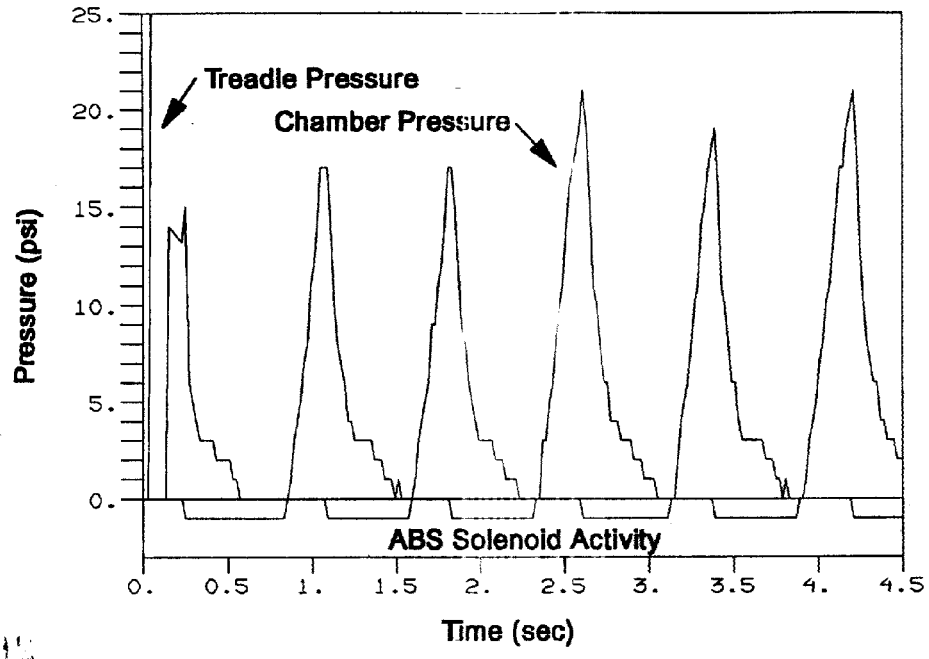


Figure 17-b
Wheel Speed and ABS Modulator Activity

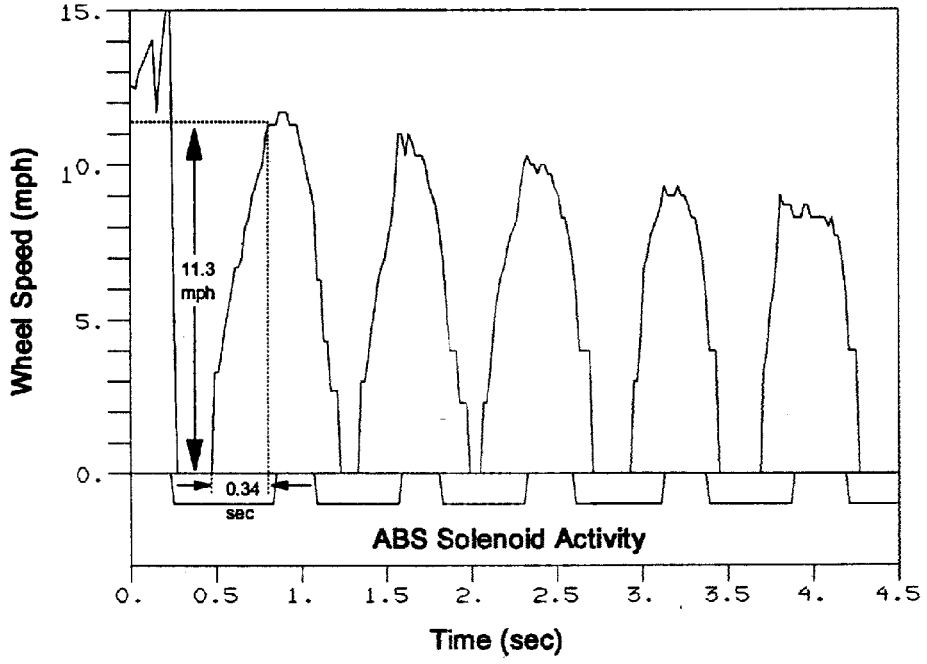


Figure 17
Data for the Left Wheel of the Intermediate Drive Axle of a 6X4 Truck Tractor with a 6S/6M ABS During a Lightly Loaded, Full Treadle Application Stop on Ice

Figure 18-a
Brake Chamber Pressure and Treadle Valve Pressure

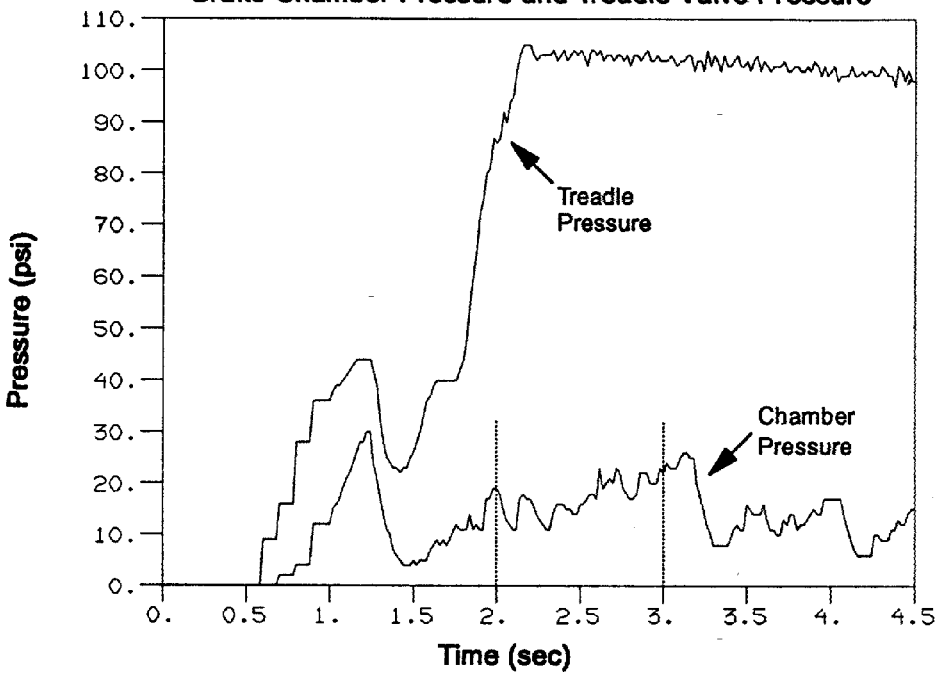


Figure 18-b
Wheel Speed

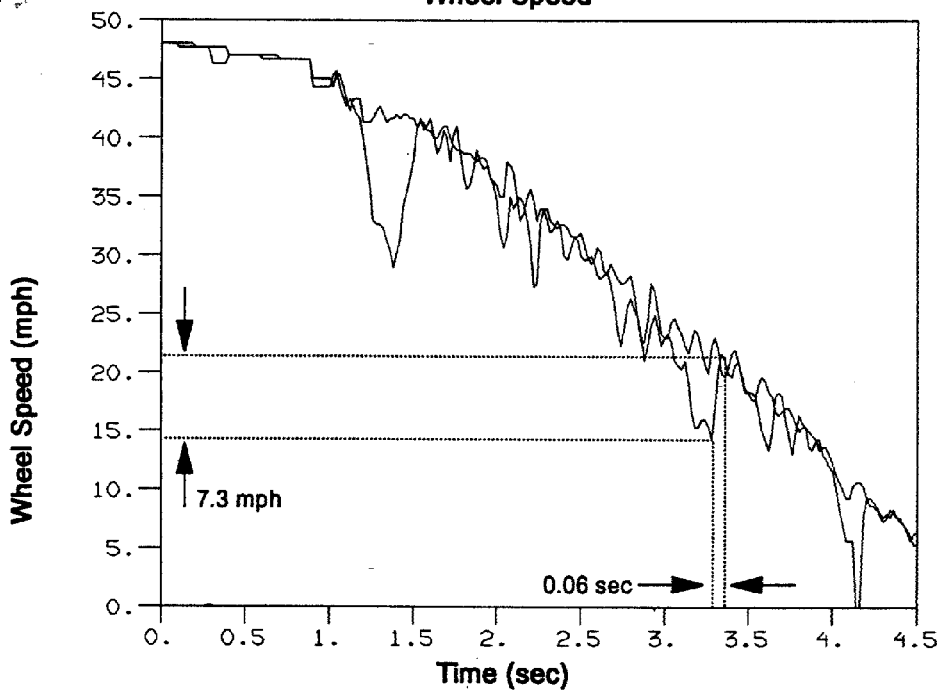


Figure 18
Data for the Left Wheels of theTandem Drive Axle of a 6X4 Truck Tractor with a 6S/6M ABS During a Lightly Loaded, Full Treadle Application Stop on aHigh Friction Surface.

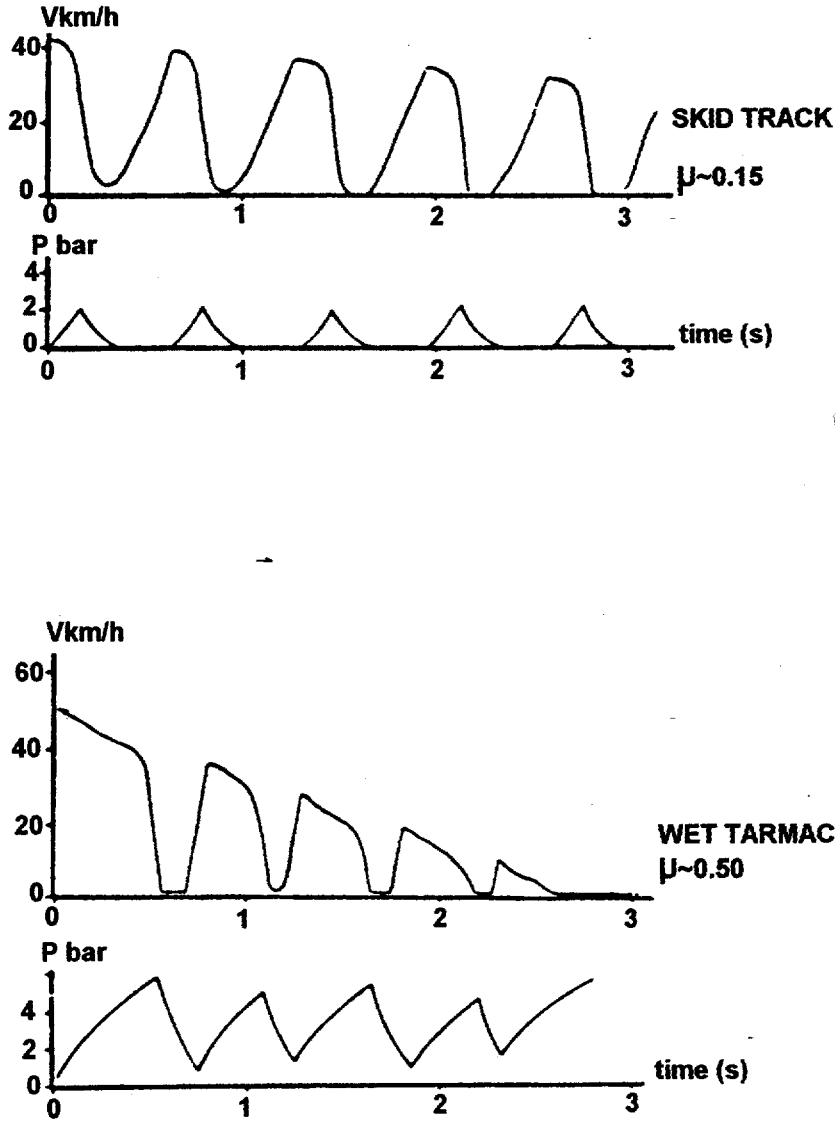


Figure 19 - Wheel Speed and Brale Pressure Response - 1970's Antilock System

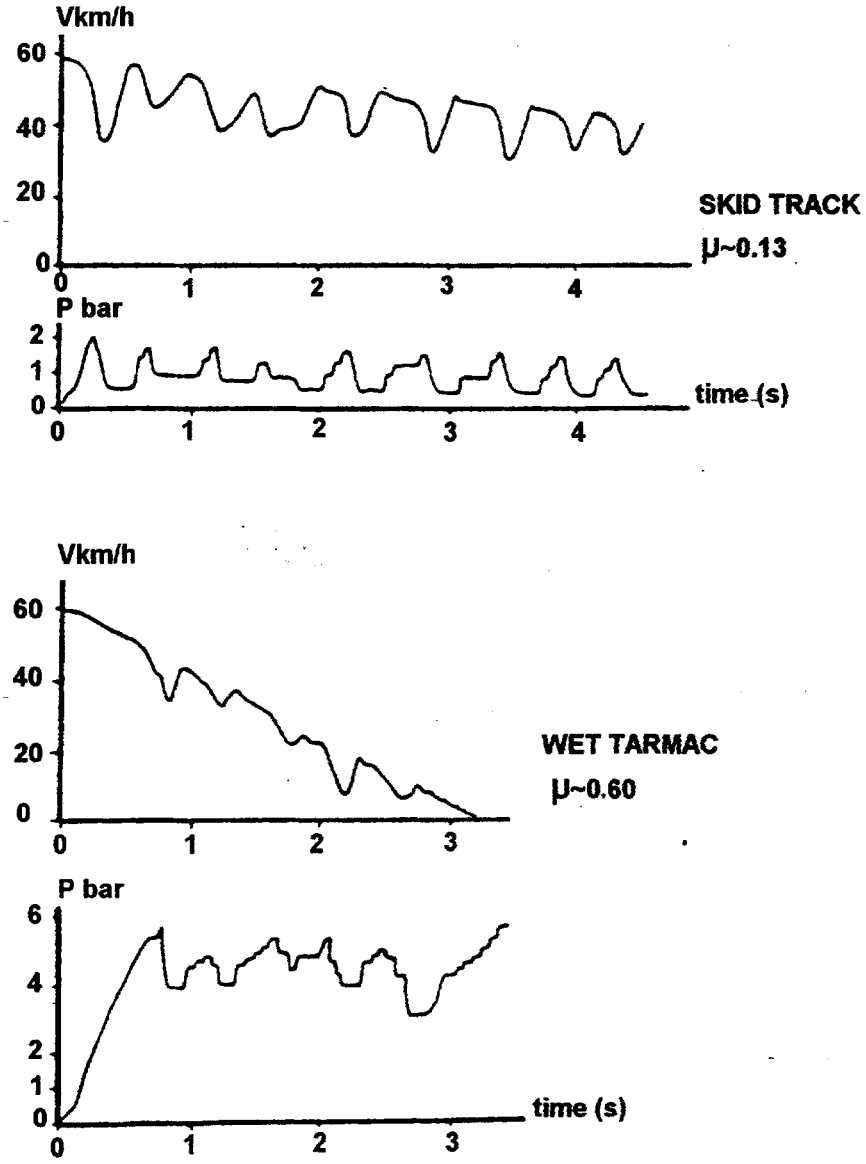


Figure 20 - Wheel Speed and Brale Pressure Response - 1980's Antilock System

[FR Doc. 95–5410 Filed 3–7–95; 8:45 am]
BILLING CODE 4910–59–C

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 93–06; Notice 3]

RIN 2127–AD07

Federal Motor Vehicle Safety Standards; Stopping Distance Requirements for Vehicles Equipped With Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice reinstates stopping distance performance requirements in Standard No. 121, *Air Brake Systems,* for medium and heavy vehicles that are equipped with air brake systems. The requirements specify distances in which different types of medium and heavy vehicle configurations must come to a complete stop from 60 mph on a high coefficient of friction surface. The requirements are designed to reduce the number and severity of crashes.

This notice is one part of the agency's comprehensive effort to improve the braking ability of heavy vehicles. In another final rule published elsewhere in today's **Federal Register**, the agency is adopting identical stopping distance requirements for medium and heavy vehicles that are equipped with hydraulic brake systems. In a third final rule that responds to the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the agency is requiring medium and heavy vehicles to be equipped with an antilock brake system (ABS) to improve the lateral stability and control of these vehicles during braking.

DATES: *Effective Dates:* The amendments become effective on March 1, 1997. Compliance to § 571.121 with respect to trailers and single unit trucks and buses will be required as of March 1, 1998.

Petitions for Reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA no later than April 10, 1995.

ADDRESSES: Petitions for reconsideration of this rule should refer to Docket 93–06; Notice 3 and should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–5892).

SUPPLEMENTARY INFORMATION:

I. Background

A. Brake Related Crashes

Medium and heavy vehicles [1] are involved in thousands of motor vehicle crashes each year. One of the most important factors that contributes to these crashes is brake system performance. Crashes in which braking is a contributory factor can be further subdivided into (1) crashes due to brake failures or defective brakes, (2) runaways on downgrades, due to maladjusted or overheated brakes, (3) crashes in which vehicles are unable to stop in time, and (4) skidding, jackknifing, or loss-of-control crashes due primarily to locked wheels during braking.

This final rule, reinstating stopping distance requirements for air-braked vehicles and the companion final rule specifying stopping distance requirements for hydraulically braked heavy vehicles will reduce the severity of or prevent crashes attributable to a heavy vehicle's inability to stop in time.[2] In these crashes, the heavy vehicle's brakes function, but do not stop the vehicle quickly enough to avoid a crash. One way to reduce the severity or number of such crashes is to improve heavy vehicle braking performance by reducing the distance needed to stop a vehicle. Even if crashes of this type were not totally prevented by such improvements in performance, the improvements would reduce collision impact speeds, and thus reduce crash severity.

The following estimates regarding heavy vehicle crashes are from NHTSA's 1992 General Estimates System (GES) which is based on data transcribed from a nationally representative sample of state police accident reports (PARs) and the Fatal Accident Reporting System (FARS). NHTSA estimates that in 1992 there were about 168,000 crashes involving heavy combination vehicles (excluding truck tractors when operating bobtail, *i.e.,* without a trailer). These crashes resulted in about 13,600 injuries and 387 fatalities to truck occupants and about 51,500 injuries and 2,452 fatalities to occupants of other involved vehicles. For bobtail truck tractors alone, the agency estimates that there were about 8,400 crashes resulting in about 1,200 injuries and 39 fatalities to truck occupants and about 2,600 injuries and 178 fatalities to occupants of other involved vehicles. For heavy single-unit trucks, the agency estimates that there were about 192,600 crashes resulting in about 15,700 injuries and 165 fatalities to truck occupants and about 48,300 injuries and 891 fatalities to occupants of other involved vehicles. In addition, crashes involving heavy vehicles result in more expensive and severe property damage than crashes involving light vehicles.

It is very difficult to quantify the number of crashes in which a vehicle's brakes are unable to stop the vehicle in time. NHTSA estimates that in 1992 there were about 18,000 crashes involving heavy combination vehicles (excluding bobtail truck tractors). These crashes resulted in about 1,800 injuries and 57 fatalities to truck occupants and about 8,400 injuries and 754 fatalities to occupants of other involved vehicles. For bobtail truck tractors alone, the agency estimates that there were about 260 crashes resulting in about 100 injuries and 7 fatalities to truck occupants and about 240 injuries and 48 fatalities to occupants of other involved

[1] Hereafter, referred to as heavy vehicles.

[2] Today's companion final rule to require heavy vehicles to be equipped with antilock brake systems (ABS) will prevent braking-induced loss-of-control crashes.

vehicles. For heavy single-unit trucks, the agency estimates that there were about 30,100 crashes resulting in about 4,200 injuries and 17 fatalities to truck occupants and about 15,000 injuries and 276 fatalities to occupants of other involved vehicles. The Final Economic Analysis (FEA) provides greater detail about how today's final rules will reduce injuries and fatalities resulting from such crashes.

The agency emphasizes that not all inability-to-stop-in-time crashes are preventable. Nevertheless, improvements to heavy vehicle brake systems should prevent or reduce the severity of a significant number of these crashes.

B. Braking Devices

In order to understand the discussion of braking in this preamble, it is necessary to be familiar with several devices used in braking systems. Therefore, the agency provides a brief explanation of those devices below.

Automatic front axle limiting valves (ALVs) automatically limit the amount of braking pressure applied at steering axle brakes. ALVs are typically installed to allay the concern of some drivers about loss of steering control due to front wheel lockup during hard braking and to reduce steering pull due to unequal brake adjustment on the front wheel brakes. However, these devices can actually increase the likelihood of drive axle and trailer lockup because the brakes on the front axle do less than their proportional share of the braking. Therefore, drivers must apply brakes harder to stop the vehicle. Accordingly, stopping distance performance could, in most cases, be improved by eliminating the use of ALVs.

Bobtail proportioning valves (BPVs) automatically reduce brake application pressure to the drive axles of a bobtail truck tractor, thereby allowing greater use of the vehicle's steering-axle braking power. Bobtail tractors demonstrate the worst stopping capability of all vehicle types, primarily because the braking systems of tractors are designed to optimize their stopping distance when they are towing a loaded trailer. Without the trailer, the lack of load on the tractor drive axles can cause premature wheel lockup and reduced stopping capability. An agency study found that, on average, the stopping distance of bobtail tractors is approximately 122 feet longer than that of tractors when connected to loaded trailers.[3] However, significantly shorter stops have been obtained when bobtails are equipped with BPVs.

Load-Sensing Proportioning Valves (LSVs) reduce the likelihood of premature wheel lockup by mechanically sensing drive-axle suspension deflection that results from weight transfer during braking, and adjusting brake proportioning based on different loading conditions. However, LSVs cannot prevent lockup of a vehicle's brakes if they are applied too hard, particularly on a low coefficient of friction surface.

Antilock brake systems (ABSs) automatically control the amount of braking pressure applied to a wheel so as to prevent wheel lock, thus increasing stability and control in emergency stops by preventing skidding, spinning, and jackknifing. Today's stability and control final rule provides a detailed discussion of these devices.

II. NHTSA Activities

A. Regulatory History

In the notice of proposed rulemaking (NPRM) to reinstate stopping distance requirements for air-braked vehicles, NHTSA provided a detailed discussion of the regulatory and judicial history of the stopping distance requirements for air braked vehicles. (58 FR 11009, February 23, 1993). When last in effect, the stopping distance requirements in Standard No. 121 required all heavy vehicles to stop within 293 feet from a speed of 60 mph on a high coefficient of friction surface (*i.e.*, a nonslippery surface typical of dry concrete). (41 FR 8783, March 1, 1976).

In response to a suit challenging Standard No. 121's stopping distance requirements, the United States Court of Appeals for the 9th Circuit invalidated the Standard's stopping distance and ''no lockup'' requirements for trucks, buses, and trailers in *PACCAR* v. *NHTSA,* 573 F.2d 632, (9th Cir. 1978) *cert. denied,* 439 U.S. 862 (1978). The court held that NHTSA was justified in promulgating a standard requiring improved air brake systems and stability mechanisms. However, after reviewing the record about reliability problems with antilock brake systems then in use, the court held that the standard was ''neither reasonable nor practicable at the time it was put into effect.''

The court further stated that:

* * * those parts of the Standard requiring heavier axles and the antilock device should be suspended. The evidence indicates that this can be accomplished if we hold, as we do, that the stopping distance requirements from 60 mph are invalid * * * We hold only that more probative and convincing data evidencing the reliability and safety of vehicles that are equipped with antilock and in use must be available before the agency can enforce a standard requiring its installation.

The stability and control final rule contains a detailed discussion about the *PACCAR* decision and how the agency has responded to the findings in that decision. The Agency has decided to specify different stopping distances for different configurations of heavy vehicles. Today's requirements can further be distinguished from those invalidated in the 1970s by the fact that manufacturers will not need to significantly redesign their brakes or use overly aggressive foundation brakes to comply with the requirements being established in today's final rule.

Even though the stopping distance requirements being specified in today's final rule are generally less stringent for some configurations than those invalidated by the *PACCAR* decision, the agency believes that the braking requirements in today's final rules, taken as a whole, significantly enhance the overall braking performance of air-braked vehicles given the agency's decision to require these vehicles to be equipped with ABS.

B. Agency Research

As a part of its review of heavy vehicle braking, NHTSA has issued two reports on the stopping distance capability of several different types of heavy air-braked vehicles in various loading conditions.[4] The agency also tested some vehicles equipped with ALVs, BPVs, and ABS, thus allowing comparisons of stopping distances with and without these devices. The tests were conducted on school buses, transit buses, single unit trucks, tractor trailers in the loaded and empty conditions and with various equipment (with ABS activated and deactivated, and with and without ALVs and BPVs). Among the conclusions reached by the agency on the basis of the test data were: (1) ALVs significantly degrade straight line stopping performance, especially in the bobtail configuration (with stopping distances as long as 531 feet); (2) BPVs significantly reduce the stopping distances of bobtail tractors; (3) ABSs are effective in providing short, stable stops in all operating conditions; (4) ABSs provide the greatest performance gain in the bobtail configuration, where stable stops as short as 233 feet were obtained; (5) braking performance of bobtail tractors and empty single unit

[3] ''NHTSA Heavy Duty Vehicle Brake Research Program Report No. 1, ''Stopping Capability of Air Braked Vehicles,'' (DOT HS 806 738, April 1985) and Report No. 9, ''Stopping Distances of 1988 Heavy Vehicles.''

[4] NHTSA Heavy Duty Vehicle Brake Research Program Report No. 1, ''Stopping Capability of Air Braked Vehicles,'' (DOT HS 806 738, April 1985) and Report No. 9, ''Stopping Distances of 1988 Heavy Vehicles.'' DOT HS 807 531, February 1990.

trucks could be improved by removing ALVs from both vehicle types and installing BPVs on bobtails; and (6) a stopping distance performance requirement for truck tractors with empty trailers would not provide any additional performance benefits that could not be achieved through specifying requirements for either the bobtail or loaded condition.

C. Heavy Vehicle Safety Report to Congress

In response to section 9107 of the Truck and Bus Regulatory Reform Act of 1988, NHTSA submitted a report to Congress titled ''Improved Brake Systems for Commercial Vehicles.'' (DOT HS 807 706, April 1991.)[5] After discussing crash data concerning heavy vehicle brake systems, the report explained the factors that are related to braking effectiveness, stability and control during braking, and braking system compatibility. The report indicated that stopping distances and vehicle stability could be improved by not equipping heavy vehicles with ALVs and instead equipping them with BPVs, load-sensing proportioning valves, and antilock brake systems.

III. Agency Proposal

On February 23, 1993, NHTSA proposed to amend Standard No. 121 to reinstate stopping distance performance requirements for stops from 60 mph on a high coefficient of friction surface for trucks, truck tractors, and buses that are equipped with air brake systems (58 FR 11009). Based on testing at VRTC, the Agency proposed different stopping distances for different configurations of heavy vehicles. Specifically, the Agency proposed that unloaded single unit trucks and bobtail tractors stop within 335 feet, loaded single unit trucks stop within 310 feet, and all buses stop within 280 feet. The Agency proposed two alternatives for testing a truck tractor in the loaded condition and stated that one of the alternatives would be chosen for the final rule. The first alternative proposed that the truck tractor be tested with a braked control trailer and stop within 280 feet, while the second alternative proposed that the truck tractor be tested with an unbraked control trailer and stop within 355 feet. The Agency explained that its long-term objective is to upgrade the braking efficiency of heavy vehicles to enable them to make controlled, stable stops, under all loading and road surface conditions. The Agency believed that the proposed requirements would reduce the disparity in braking ability between heavy vehicles and passenger cars. On the same day, the Agency proposed identical stopping distance requirements for heavy vehicles equipped with hydraulic brakes (58 FR 11003). The Agency stated that many vehicles were already able to comply with the proposed requirements. The inadequate performance of those vehicles that were not able to comply was due to either poor brake torque balance between the vehicles' axles resulting in premature lockup of the wheels on the vehicles' rear axles or a lack of sufficient total brake torque capability. Those vehicles that exhibited poor brake balance could be brought into compliance by installing ABS, or by adding BPVs and/or eliminating ALVs. Those vehicles that lack sufficient total brake torque capability could be brought into compliance by incorporating relatively minor changes to their foundation brake components involving the substitution of other currently available components.

NHTSA proposed that air-braked vehicles would have to come to a complete stop within a 12-foot-wide lane with restrictions on which wheels would be permitted to lockup during the stop. The proposal requested comments about whether and to what degree wheel lockup during testing would be permitted. Specifically, the Agency proposed to allow unlimited lockup below 20 mph and defined two types of wheel lockup allowed above 20 mph: ''permissible wheel lockup,'' which is defined as 100 percent wheel slip of one or more wheels for a duration of one second or less[6] for testing purposes, and ''limited lockup,'' which is defined as lockup of not more than one wheel per axle or two wheels per tandem. In addition, NHTSA proposed test conditions related to the road test surface, the use of a braked or unbraked control trailer, and the initial brake temperature. NHTSA also proposed specifying a threshold pressure to enhance brake force compatibility between tractors and trailers.

IV. Comments on the Proposal

NHTSA received 49 comments in response to the NPRM. Commenters included heavy vehicle manufacturers, brake manufacturers, safety advocacy groups, heavy vehicle users, industry trade associations, and other individuals. The American Automobile Manufacturers Association (AAMA) submitted joint comments on behalf of the eight major domestic manufacturers of heavy vehicles: Chrysler, Ford, Freightliner, General Motors (GM), Mack Trucks, Navistar, PACCAR, and Volvo-GM.

All the commenters supported the Agency's decision to reinstate stopping distance requirements for heavy vehicles equipped with air brakes. However, they offered mixed views about the specific stopping distances being proposed. GM, Navistar, Heavy Duty Brake Manufacturers Council (HDBMC), and Rockwell WABCO stated that the proposed stopping distance requirements are appropriate. In contrast, the Insurance Institute for Highway Safety (IIHS), the Coalition for Consumer Health, and Advocates for Highway Safety (Advocates) believed that the required distances should be much shorter for trucks and buses. Advocates stated that the proposal did little more than ''grandfather'' existing braking capabilities and therefore would not result in the best available braking performance for large trucks.

The American Trucking Association (ATA), IIHS and several other commenters suggested that the Agency should merge the proposed stopping distance and stability requirements into a common rulemaking, thereby allowing the industry to implement a more effective test program.

Commenters also addressed specific issues raised in the NPRM, including vehicle test speed, the test surface specification, the control trailer, wheel lockup restrictions, the initial brake temperature, the failed system test, vehicle loading, the threshold pressure requirements, the parking brake test, the burnish procedures, and the implementation schedule for the requirements. More specific discussions of these comments, and the Agency's responses to them, are set forth below.

V. Agency Decision

A. Overview

Based on the Fatal Accident Reporting System (FARS) and other crash data, test data from the agency's heavy vehicle brake research program, comments on the NPRM, and other available information, NHTSA has decided to amend Standard No. 121 to reinstate stopping distance performance requirements for heavy vehicles that are equipped with air brake systems. Separate requirements for stopping from 60 mph on a high coefficient of friction surface are specified for four different heavy vehicle configurations. The requirements are designed to reduce the

[5] This report may be examined at the Agency's Technical Reference Office, room 5108, at no charge. It is available from the National Technical Information Service (NTIS), Springfield, VA 22161 for a small charge.

[6] As explained below, the final rule refers to this concept as ''momentary wheel lockup.''

distance needed for these vehicles to come to a complete stop, thereby reducing the severity and number of crashes.

As noted above, this notice is one part of the Agency's comprehensive effort to improve the braking ability of heavy vehicles. In a second final rule published elsewhere in today's **Federal Register**, the Agency is adopting identical stopping distance requirements for heavy vehicles that are equipped with hydraulic brake systems. The Agency believes that it is appropriate to specify identical stopping distance requirements for similar vehicles. In a third final rule, the Agency is responding to the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 by requiring each heavy vehicle to be equipped with an antilock brake system to improve its lateral stability and control during braking.

B. Stopping Distance Performance

1. Stopping Distance Requirements

Based on its testing at VRTC, NHTSA proposed different stopping distances for various categories of vehicles when tested at a speed of 60 mph on a surface with a peak friction coefficient (PFC) of 0.9, as follows:

Loaded and Unloaded Buses.....280 ft.
Loaded Truck Tractors with Braked Control Trailer.....280 ft.
Loaded Truck Tractors with Unbraked Control Trailer.....355 ft.
Loaded Single-Unit Trucks .....310 ft.
Unloaded Single-Unit Trucks & Truck Tractors (Bobtail).....335 ft.

The agency proposed different requirements, instead of a single across-the-board requirement like the one invalidated by the *PACCAR* court, because a single requirement for all heavy vehicles with fully operational service brakes would be too stringent for bobtail tractors and unloaded single unit trucks, but not stringent enough for buses and for tractor trailers in the loaded condition.

AAMA and most other industry commenters agreed with the stopping distance values proposed for the various vehicle configurations. AlliedSignal commented that these requirements are compatible with its view of using BPVs to achieve increased deceleration on air-braked tractors, while maintaining lateral stability in the bobtail mode. Nevertheless, it requested that ALVs not be prohibited since it believed that these devices are appropriate on some vehicles, particularly those with large front brakes. AlliedSignal recommended that if an ALV is used on a vehicle, it should be automatically deactivated when the tractor is in the bobtail mode. ATA agreed with the proposal to specify different stopping distances for different types and loadings of vehicles. It also agreed with specifying the same stopping distances for air-braked and hydraulically-braked vehicles of the same type and with the same loading.

Other commenters opposed some of the proposed stopping distance values on the ground that they were too stringent. HDBMC stated that certain vehicles would have difficulty complying with the proposed stopping distances because they are over-braked when the rear axles are unloaded, and under-braked during emergency system stops. Lucas was concerned that the service brake stopping distances obtained during the agency's testing do not have a 10 percent margin less than the proposed 280 feet from 60 mph. In order to obtain an acceptable margin, Lucas stated that vehicle manufacturers will have to equip certain vehicles with larger front brakes, which would represent a major change on some vehicles.

In contrast, other commenters stated that the proposed stopping distances were not sufficiently stringent. Advocates stated that the proposed stopping distances simply ratify the braking distances currently achieved by manufacturers and do not seek to improve real-world braking performance. It stated that except for the 280-foot requirement for buses and loaded tractors with a braked control trailer, all of the other proposed stopping distances are longer than the 293 feet established before *PACCAR*. Similarly, IIHS stated that the proposals do not go far enough toward requiring the best available braking for heavy vehicles.

Based on the comments and other available information, NHTSA has decided to adopt the stopping distances proposed in the NPRM for the following categories of vehicles when tested at a speed of 60 mph on a surface with a PFC of 0.9:

Loaded and Unloaded Buses [7].....280 ft.
Loaded Truck Tractors with Unbraked Control Trailer [8].....355 ft.
Loaded Single-Unit Trucks .....310 ft.
Unloaded Single-Unit Trucks & Truck Tractors (Bobtail).....335 ft.

As it stated in the NPRM, NHTSA agrees with HDBMC that a small number of vehicles will have to be modified to comply with the reinstated stopping distance requirements. The agency notes that the companion final rule requiring heavy vehicles to be equipped with antilock brake systems will improve the braking of those vehicles whose braking performance is limited due to poor brake torque balance, and will enable them to comply with the stopping distance requirements. For those vehicles that will require changes to their foundation brakes, so as to provide greater brake torque capability, the agency believes that adequate leadtime is being provided to minimize the task of achieving compliance with the requirement.

NHTSA notes that while the companion final rule requiring heavy vehicles to be equipped with ABSs will reduce the need to eliminate front axle ALVs on single unit trucks and truck tractors and to install rear axle BPVs on truck tractors, the agency would still encourage vehicle manufacturers to do so. Vehicles without ALVs and/or with BPVs can be braked at higher levels of deceleration before the vehicle's ABS is activated, which the agency believes will improve the vehicle's driveability. The Agency is aware of at least one manufacturer of ABSs that currently recommends the incorporation of BPVs on truck tractors equipped with ABS.

2. Stopping Distance Test Conditions

a. Test Surface Specification

In the NPRM, NHTSA proposed that the 60-mph stopping distance tests be performed on a test surface with a PFC of 0.9, which is typical of dry concrete. In formulating the proposal, the agency considered whether the proposed test surface specification raises practicability or objectivity concerns in light of *PACCAR*. Based on its testing, the agency tentatively concluded that specifying a test surface with a high PFC would reasonably represent stopping on a dry surface and would not be a significant source of variability in the stopping distance tests. The Agency requested comments on the proposed test surface specification.

Several commenters addressed the appropriate PFC for the test. AAMA and Navistar commented that the test surface should be specified at a PFC of 1.0 because that PFC value would remove the influence of test road variability from compliance testing. AAMA provided data that showed that in the course of six months, the PFC varied between 0.85 and 0.95, and averaged 0.90 over ten readings taken approximately twice each month. According to Navistar, its data showed PFCs that ranged from 0.91 to 0.98.

[7] The final rule amending Standard No. 105 discusses in detail the stopping distances applicable to hydraulic-braked school buses.

[8] As explained in the section below titled ''control trailers,'' the agency proposed but decided not to adopt a revised braked control trailer test condition.

AAMA argued that since the majority of actual test surfaces nominally exceed PFC 0.9, a specification of 0.9 would impose a cost burden on manufacturers trying to maintain the test surface near, but below, the 0.9 value. AAMA stated that ''worldwide support'' has been expressed for specifying a test surface with a PFC of 1.0. Volvo GM provided results of the Motor Vehicle Safety Research Advisory Committee (MVSRAC) Antilock Brake System (ABS) Task Force ''Round Robin'' testing, which showed that on high coefficient of friction surfaces with PFCs ranging from 0.87 to 1.00, the stopping distances of the three test vehicles remained relatively constant when tested in the bobtail condition. This indicates stopping performance on a dry surface is not significantly affected by variability. Strait-Stop requested that a tolerance of ± 0.1 relative to 0.9 should be specified to accommodate real-world limitations.

Based on the industry-government cooperative testing to evaluate the effect of fluctuations of PFC on vehicle stopping performance, NHTSA reaffirms its belief that a PFC of 0.9 reasonably represents a typical dry surface and will not be a significant source of variability in the stopping distance tests. (Public Files Docket PF88–01, MVSRAC ABS Task Force, Round Robin No. 1). Testing indicates that the expected minor variability of a high coefficient of friction surface appears to have a negligible impact on vehicle stopping distance performance. Variation of the average stopping distances for the six different surfaces (with PFCs ranging from 0.89 to 0.94) was small, with the deviation from the average being only 5 feet. Accordingly, the agency believes that any variability in the stopping performance on a high coefficient of friction surface is more likely due to variation in the vehicle's performance rather than test surface variability. NHTSA has decided that a test road surface specification of PFC 1.0 would result in practicability problems for the agency, since it would have to conduct compliance testing on a surface with a PFC higher than 1.0. Such a surface is difficult to find. The agency also notes that General Motors conducted an extensive survey of actual road surfaces, which indicated that a PFC of 0.9 is fairly typical.

NHTSA notes that AAMA's claim that there is worldwide support for specifying a PFC of 1.0 is incorrect. The agency notes that when the issue was discussed by the ECE in the context of the international harmonization of brake standards, the decision was to specify a PFC of 0.9[9]. Moreover, when the Organization International des Constructeurs d'Automobiles (OICA) proposed adopting a PFC of 1.0, no country supported such a requirement.

NHTSA has decided not to adopt Strait-Stop's request to specify a tolerance for the test surface. The agency notes that in specifying the test conditions applicable to the test surface, the agency does not provide a range of permissible test surfaces. Instead, the braking standards set forth specific, objective criteria for the test surface according to which the agency conducts its compliance testing.

b. Wheel Lockup Restrictions

In the NPRM, NHTSA proposed that the straight line stopping distance test be conducted without locking more than one wheel per axle or two wheels per tandem at speeds greater than 20 mph. In addition, the agency proposed to allow unlimited lockup at 20 mph or below, and to allow permissible wheel lockup for testing purposes. NHTSA believed that allowing limited wheel lockup combined with permissible wheel lockup at speeds above 20 mph would ensure a safe and reasonably repeatable test condition, while providing an indication of a vehicle's stability up to the vehicle's braking performance limit. These provisions addressing wheel lockup were based on the previously mentioned stopping distance tests conducted at VRTC. NHTSA requested comments about the degree to which lockup should be permitted and under what circumstances, including whether to allow unrestricted wheel lockup of test vehicles.

Commenters addressed four distinct issues with respect to the wheel lockup restrictions: (1) Specifying various types of lockup that would be allowed; (2) applying the wheel lockup restrictions to ABS equipped axles; (3) applying the wheel lockup restrictions to certain other axles; and (4) applying the wheel lockup restrictions to emergency system stops.

AlliedSignal, ATA, AAMA, and Strait-Stop commented that the wheel lockup restrictions were not clear. AlliedSignal suggested that ''permissible'' and ''limited'' be replaced by one term, and that wheel lockup be defined as 100 percent wheel slip at both wheels on an axle or more than two wheels on a tandem for a duration greater than one continuous second. AAMA requested that ''wheel lock restriction'' be defined ''as 100 percent wheel slip of both wheels of an axle, or more than two wheels on a tandem, for a duration greater than one continuous second.'' Strait-Stop requested that permissible wheel lockup be defined as lockup of one or more wheels at 100 percent slip for a reasonable time. ATA stated that the proposed regulatory language does not clearly indicate whether unlimited wheel lockup is permitted at speeds below 20 mph.

After reviewing these comments, NHTSA has decided to adopt the proposed concepts pertaining to wheel lockup restrictions in the stopping distance test, with some modifications to enhance the provision's clarity. Aside from defining wheel lockup as 100 percent slip, and renaming ''permissible wheel lockup'' as ''momentary wheel lockup,'' NHTSA has decided that it is clearer to specify the concept directly in the stopping distance requirement in S5.3.1 instead of defining the various types of lockup (*e.g.*, momentary (permissible) lockup, limited lockup, unlimited lockup) and then referencing them in S5.3.1. Accordingly, a vehicle is required to stop with wheel lockup permitted under the following conditions. At vehicle speeds above 20 mph, one wheel on any axle or two wheels on any tandem may lock up for any duration. At vehicle speeds above 20 mph, wheels on certain axles (*i.e.*, nonsteerable axles other than the two rearmost nonliftable, nonsteerable axles) may lock up for any duration. At vehicle speeds above 20 mph, any wheel not permitted to lock, as described in the two conditions above, may lock up repeatedly, with each lockup condition having a duration of one second or less. At vehicle speeds of 20 mph or less, any wheel may lock up for any duration. These exceptions allowing certain types of lockup are based on the above-mentioned tests conducted at VRTC.

In establishing the requirements applicable to wheel lockup restrictions, NHTSA examined the commenters' recommended definitions for wheel lockup restriction. The Agency believes that these definitions achieve only part of the Agency's objective in establishing wheel lockup restrictions. The Agency interprets AAMA's definition as allowing both wheels on an axle to lock up (100 percent slip) for up to one second. However, AAMA's recommended definition is unclear about whether one wheel is allowed to remain locked up for the duration of the stop. NHTSA believes that it would be necessary to add additional wording to AAMA's definition to achieve the same

[9] Eleventh Informal Meeting on Harmonization of Brake Standards, August 26–27, 1991 and 29th Meeting of Experts on Brakes and Running Gear, August 28–30, 1991.

objective that is already achieved by the Agency's requirements.

Several commenters stated that the wheels on any axle controlled by ABS should be excluded from wheel lockup constraints. Rockwell International stated that the proposed stopping distance regulation will become obsolete soon, since the references to permissible and limited wheel lockup will be superseded by the ABS regulation. Rockwell WABCO stated that the proposed stability and control rulemaking will resolve problems with respect to the wheel lockup definitions. AAMA expressed its concern that imposing wheel lockup constraints on ABS-equipped vehicles could pose practicability problems during tests. For example, AAMA said that the test driver could be required to modulate brake pressure in order to prevent wheel lockup on axles not equipped with ABS, at the same time the ABS is cycling.

NHTSA believes that the requirements in S5.3.1 continue to be necessary, notwithstanding the Agency's decision to require heavy vehicles to be equipped with antilock brake systems. The Agency believes that the limited lockup and momentary lockup restrictions will not impose any unreasonable or currently unachievable performance requirement on antilock systems during the stopping distance test, since the amount of lockup allowed by these restrictions is considerably greater lockup than allowed by any currently available antilock system. The antilock requirement specifies that an ABS on a truck tractor must control ''the wheels of at least one front axle of the vehicle and the wheels of at least one rear axle * * *'' Therefore, if a vehicle is equipped with ABS on only one axle of a rear tandem, the limited and momentary lockup requirements ensure that the vehicle can be braked without excessive wheel lockup of the wheels, including those controlled by ABS. Even if both non-ABS-controlled wheels of the tandem lock for the duration of the stop (they meet the limited lockup requirement test), the ABS-controlled wheels would then be allowed to lock for a duration of one second or less, at speeds above 20 mph. The Agency, therefore, does not agree with the claims that the backup restrictions would prohibit ABS on some vehicles, or that they would pose practicability problems for test drivers.

NHTSA believes that AAMA's concern about problems with specifying wheel lockup restrictions is unrealistic. The Agency is unaware of any currently used antilock system that would allow wheel lockups that would not comply with the above restrictions.

Rockwell WABCO further stated that the wheel lock issue can be resolved by requiring the vehicle to remain in the 12-foot-wide lane during testing to the stopping distance requirements.

NHTSA believes that Rockwell WABCO's suggestion that the sole requirement be that a vehicle stay within a 12-foot-wide lane does not adequately take into consideration that on a smooth, flat, and straight surface, a vehicle with locked wheels might possibly stay within the lane. Accordingly, such a stop would not fully demonstrate the capability of a vehicle to provide stable stops at the limit of the vehicle's braking performance.

Several commenters recommended that the wheel lockup restrictions not be applicable to emergency system stops. AAMA recommended that wheel lockup constraints only apply to full service stops ''to avoid compromises to full system performance for the sake of partial system wheel lock.''

NHTSA agrees with these comments. In its present form, the restrictions on wheel lockup in Standard No. 121 appear in S5.3.1, and thus do not apply to the emergency stops specified in S5.7.1. The NPRM did not propose to extend those restrictions to emergency braking, and the Agency is not making such a change in this final rule.

c. Control Trailer

In the NPRM, NHTSA proposed two alternatives for testing a truck tractor in the loaded condition. The first alternative proposed the use of a braked control trailer, which would be similar to the current braked control trailer. The second alternative proposed the use of an unbraked control trailer.

AAMA, ATA, HDBMC and Rockwell WABCO supported the use of an unbraked control trailer. They believed that its use would eliminate many sources of test result variability and would produce test results that are consistent, comparable, and useful. Rockwell WABCO stated that a braked control trailer with ABS could lead to test performance variations since there are many different trailer antilock systems now available. It believed that it would be extremely difficult to define the required performance of the control trailer and the antilock system necessary to have a consistent ''test fixture'' for the stopping distance standard.

Strait-Stop objected to the use of an unbraked control trailer, stating that its use would render the stopping distance performance of the combination vehicle meaningless. Trade International Corporation (TIC) did not explicitly support either of the two control trailer alternatives, but objected to the mandated use of ''electronically controlled systems'' to the exclusion of any other type of system, for the braked control trailer ABS.

NHTSA has decided to specify the use of an unbraked control trailer to test a truck tractor in the loaded condition. The Agency notes that this decision, which is consistent with the views of most commenters, will eliminate test variability and produce test results that are consistent, comparable, and useful. Contrary to Strait-Stop's assertion, the Agency, along with most commenters, believes that the test results on unbraked control trailers provide meaningful comparative information. This is so because the stopping ability of all tractors will be evaluated in the same relative context (*i.e.*, all tractors would be mated to a similar unbraked control trailer). An unbraked control trailer is easier to standardize than a braked control trailer since there is no need to specify the foundation brakes and the antilock brake system. The section on control trailers in the stability and control final rule provides a more extensive discussion of this issue.

d. Vehicle Loading

In the NPRM, NHTSA proposed that tractors would be loaded with an unbraked control trailer, which would be loaded above the kingpin only, such that the tractor is at GVWR and the trailer's axle is at 4,500 pounds, with the tractor's fifth wheel adjusted so that the load on each axle is proportional to the axle's respective GAWR. (See alternative 2, S6.1.10.4.)

AAMA requested that the Agency add the phrase ''without exceeding the GAWR of any tractor or trailer axle.'' AAMA stated that for some vehicles, it is impossible to load the tractor to its GVWR through the kingpin without exceeding the drive axle GAWR. Due to limited fifth wheel adjustment on some vehicles, virtually all of the ballast added at the fifth wheel is borne by the tractor's rear axle, with very little transferred to the front axle.

After reviewing AAMA's comment, NHTSA has decided to amend S6.1.10.4 to include the phrase ''without exceeding the GAWR of any tractor or trailer axle.'' The Agency believes that this modification is consistent with the proposal's intent to have the loading proportional to each axle's respective GAWR. The Agency is aware that this modification will result in some tractors being tested slightly below their GVWR. However, since actual users will be similarly incapable of loading the vehicle to its GVWR without exceeding

GAWR, the reduced amount should not adversely affect motor vehicle safety.

e. Initial Brake Temperature

In the NPRM, NHTSA proposed an initial brake temperature of 250 °F to 300 °F. The Agency tentatively concluded that specifying a high brake temperature would reduce cooling time between stops and therefore allow vehicle testing to proceed faster. All the commenters that addressed this issue opposed the proposed adoption of such a high initial brake temperature.

Based on these comments and the available test data, NHTSA has concluded that an initial brake temperature of between 150 °F to 200 °F range is more appropriate than the proposed temperature range. As explained in detail in the stability and control final rule, testing using the 150 °F to 200 °F temperature range is more repeatable and results in less variation between runs, compared to testing conducted at an initial brake temperature of 250 °F to 300 °F, particularly for the emergency brake stops.

f. Emergency Stopping Distance Requirements

Although the NPRM did not propose to change the current emergency stopping distance requirements in Standard No. 121, several commenters recommended changes. AMA, ATA, Allied Signal, HDBMC, and Rockwell International recommended that the Agency eliminate the stopping distance performance requirements for a loaded truck tractor's emergency braking system when tested with an unbraked control trailer. They stated that a failed primary or a failed secondary brake system does not realistically simulate any real-world vehicle situation that can occur during a single brake system failure. They further stated that this requirement would impose extremely unrealistic loads on the functioning truck tractor brakes. AAMA stated that the emergency brake systems are not designed to stop a loaded unbraked control trailer, and that Standard No. 121 already includes a requirement in S5.7.3(c) stating that a loss of primary or secondary tractor brakes should not result in a loss of trailer brakes. Test data submitted by AAMA and Allied Signal showed stopping distances in excess of 2,000 feet for the failed primary (rear) brakes on a tractor with a loaded unbraked control trailer. The stopping test distances submitted for failed secondary (front) brakes on the tractor with a loaded unbraked control trailer were within the current requirement of 613 feet. Based on these considerations, the commenters recommended that the tractor's emergency brake system be tested in the bobtail configuration only.

After reviewing the comments and other available information, NHTSA has decided to apply the emergency brake system test for truck tractors only in the unloaded (bobtail) condition for both the failed primary and failed secondary conditions. According to test data obtained through the Agency's testing and provided by commenters, emergency brake system testing presents a unique problem for a loaded truck tractor with an unbraked control trailer. With either a primary or secondary failure of the tractor's brakes, the loaded combination would be braked only by the front axle or rear axle brakes, since the control trailer is unbraked. As a result, the stopping distances would be extremely long, particularly in the case of the failed rear brakes system. In addition, such a situation does not realistically simulate failed truck tractor systems since in real-world situations, the trailer brakes are intact.

g. Burnish Procedure

Even though this rulemaking did not address burnish procedures, AAMA and HDBMC requested that the Agency indefinitely allow using the old or the new burnish procedure as an option.

The Agency believes that the effective date for the ''new'' burnish procedure should be considered in Docket No. 70–27, Notice 33, and Docket No. 83–07, Notice 5, independently from the stopping distance effective dates.[10] Given that the industry has been aware since August 1993 that the new burnish procedures would be required after September 1994, NHTSA believes that vehicle manufacturers have had sufficient time to conduct any additional testing and to make any necessary design changes in order to meet the requirements of Standard No. 121 with the new burnish procedure. Moreover, since the new procedures have been in effect since September 1, 1994, the issue of extending the option formerly allowed is moot. Therefore, NHTSA has decided to terminate the rulemaking on the burnish issue.

[10] On August 30, 1993, NHTSA issued an interim final rule and an NPRM addressing whether the old burnish procedures should be allowed indefinitely (58 FR 45459). Optional compliance with the ''new'' procedures had been permissible since 1988 and was extended to September 1994. The Agency also proposed extending optional compliance until March 1996. The Agency requested comments about whether the new burnish procedures should become the sole specified procedures or whether the old burnish procedures should be allowed for an additional period of time.

h. Parking Brake Test

AAMA requested that the agency modify the parking brake procedure in this rulemaking by specifying an initial brake temperature of 150–200 °F, and a ''compounding technique'' for consistency of grade holding and drawbar procedures. Compounding is described as a full treadle service brake application preceding the application of the parking brakes. AAMA claimed that during its testing to respond to the stopping distance NPRMs, it realized that different manufacturers use different parking brake test procedures. Therefore, its stated reason for proposing a change is to avoid having compliance issues arise due to alleged test procedure ambiguities.

NHTSA has neither addressed this issue in the NPRM nor conducted research about compounding. Therefore, the Agency has determined that it would be inappropriate at this time to modify the Standard to specify such a compounding test procedure. If the Agency were to decide in the future that it may be desirable to amend the Standard to require this test condition, it would issue an NPRM to provide the industry and other interested parties an opportunity to comment about such a modification.

As discussed above, NHTSA has agreed to AAMA's request to specify an initial brake temperature of between 150–200 °F for the service brake performance tests. As so modified, the parking brake test procedure explicitly specifies that the parking brake test be conducted ''under the conditions of S6.1,'' which specifies the initial brake temperature for the test. Therefore, any ambiguity that allegedly results from the higher initial brake temperature is no longer present.

C. Threshold Pressure Requirement

In the NPRM, NHTSA proposed to establish a requirement for threshold pressure [11] levels of 6.0±0.5 psi for truck tractors and trailers equipped with an air brake system. The Agency tentatively concluded that such a requirement would improve the brake balance on combination vehicles and reduce the potential for vehicle instability when lightly loaded. The Agency requested comments about the need for establishing threshold pressures and whether the proposed threshold pressure and its range were appropriate and feasible.

All commenters recognized the need to improve tractor trailer compatibility

[11] ''Threshold pressure'' is the brake application pressure at which the brakes actually begin to generate braking torque.

and supported the intent of the proposed threshold pressure requirement. However, AAMA, Midland-Grau, and Rockwell opposed establishing a threshold pressure requirement until additional research could be conducted.[12] The commenters requested that the Agency not issue such a requirement until a cooperative industry and government effort can be conducted to better define the performance and safety improvements of a threshold pressure and tolerance requirement.

Most commenters believed that selecting a target threshold pressure value of 6.0 psi, which was approved by the SAE Brake Committee in 1985, would not be realistic for current combination vehicles. In addition, HDBMC stated that small differences in threshold pressure are irrelevant to whether a tractor trailer combination can achieve the prescribed stopping distances. HDBMC noted that SAE Recommended Practice J1505, ''Brake Force Distribution Test Code'' (May 1985) was developed primarily to reduce maintenance costs by improving brake drum and lining life and to enable fleets to standardize threshold pressures. It further stated that the testing conducted to establish SAE J1505 was limited to S-Cam brakes and vehicles with a GAWR of 16,000 to 20,000 pounds. S-Cam brakes on larger vehicles, wedge brakes (which have higher threshold pressures) and disc brakes were not tested.

Several commenters addressed the threshold pressure level that should be established if the Agency decided to adopt a threshold pressure requirement. Mr. Crail recommended that the tolerance range be increased from 6.0±0.5 psi to 6.0±1.0 psi to accommodate the variation in relay valves, brake chamber return springs and foundation brake return springs. AAMA stated that a tolerance for air brake components of ±3.73 psi was appropriate. Lucas suggested a tolerance of +3 psi and that the Agency should apply this tolerance to only tractor drive axles and trailer axles with 16.5 inch S-cam drum brakes. ATA recommended a tolerance of between 2 to 11 psi.

After reviewing the comments and other available information, NHTSA has decided not to establish a pressure threshold requirement at this time. The Agency notes that additional research and testing needs to be conducted on this matter since there currently is insufficient information to set a threshold pressure tolerance for combination vehicles. The brake components that affect the threshold pressure, such as internal friction in the relay valves and the return springs in the brake chamber and foundation brakes, provide a tolerance close to 4 psi. Therefore, establishing a threshold pressure requirement, even with a broad tolerance, could pose compliance problems for the industry. In addition, additional research needs to be conducted on brakes other than S-cam brakes.

NHTSA emphasizes that after additional cooperative testing is completed, a threshold pressure requirement could be proposed that would improve the braking performance of a combination vehicle, particularly at low application pressures typical of normal stops.

D. Requirements for Brake Linings

ATA and Mack Trucks requested that NHTSA issue a rule requiring replacement brake linings to be of the same quality and have the same friction characteristics as the linings used by original equipment manufacturers.

The issue of aftermarket brake linings is the subject of a separate NHTSA rulemaking action, and will not be addressed by this notice. If the Agency tentatively concludes that such requirements for aftermarket brake linings are in the interest of motor vehicle safety, then it will issue a proposal to adopt such requirements.

E. Implementation Schedule

In the NPRM, NHTSA proposed that the stopping distance requirements become effective two years after the final rule's publication.

AAMA supported the proposed effective date, provided that the agency incorporated its recommended modifications in the final rule. Rockwell recommended that the stopping distance requirements and the stability performance requirements be combined so that the effective dates for both rulemakings are concurrent. Several commenters on the stability and control NPRM, including AAMA, made the same suggestion. AAMA noted that since ABS can directly influence achievable stopping distance, it is important to optimize brake system performance by taking both stopping distance and stability into account.

On April 12, 1994, NHTSA published a supplemental notice of proposed rulemaking that proposed the following implementation schedule for both the stopping distance and lateral stability and control requirements:

Truck tractors—2 years after final rule (1996)
Trailers—3 years after final rule (1997)
Air-braked single unit trucks and buses—3 years after final rule (1997)
Hydraulic-braked single unit trucks and buses—4 years after final rule (1998).
(59 FR 17326).

The Agency reasoned that making the effective dates for the two rulemakings concurrent would promote a more orderly implementation process, avoid the need for manufacturers to redesign the brakes on individual vehicles twice, and reduce the development and compliance costs that manufacturers would face as a result of these regulations. NHTSA requested comments about the implementation schedule proposed in the supplemental notice.

As the stability and control final rule discusses in detail in the section titled ''implementation schedule,'' NHTSA has decided to adopt an implementation schedule similar to the one proposed in the SNPRM. Specifically, truck tractors manufactured on or after March 1, 1997 will have to be equipped with ABS and comply with the braking-in-a-curve test and high coefficient of friction stopping distance requirements; trailers and single-unit air-braked trucks and buses manufactured on or after March 1, 1998 will have to be equipped with ABS, and, except for trailers, comply with the high coefficient of friction stopping distance requirements; and hydraulic-braked trucks and buses manufactured on or after March 1, 1999 will have to be equipped with ABS and comply with the high coefficient of friction stopping distance requirements. The Agency has decided that these effective dates, which were widely supported by vehicle manufacturers, brake manufacturers, and safety advocacy groups, will provide for an efficient implementation of the heavy vehicle braking rulemakings.

F. Intermediate and Final Stage Manufacturers/Trailer Manufacturers

Vehicle manufacturers must certify that each of their vehicles complies with all applicable Federal motor vehicle safety standards. While this statutory certification requirement is straightforward with respect to vehicles produced by a single manufacturer, it is more complex for vehicles produced in two or more stages. With such multistage vehicles, one or more manufacturers produce an ''incomplete vehicle'' which requires further manufacturing operations by another manufacturer to become a completed vehicle. As defined in 49 CFR 568.3, an incomplete vehicle includes, at a

[12] Only Mr. Robert Crail, a brake engineer, favored adopting a requirement to improve pressure compatibility between tractors and trailers.

minimum, a frame and chassis structure, power train, steering system, suspension system, and braking system. Incomplete vehicles may be grouped in two categories: (1) Chassis-cabs (which are incomplete vehicles with fully completed occupant compartments that require only the addition of cargo-carrying, work-performing, or load-bearing components to perform their intended functions and become completed vehicles (49 CFR 567.3)) which are certified by the chassis-cab manufacturer (49 CFR 567.5), and (2) incomplete vehicles other than chassis-cabs (''non chassis-cabs''), which are not certified by the incomplete vehicle manufacturer.

The National Truck Equipment Association (NTEA) commented that manufacturers of multi-stage vehicles may not be able to demonstrate compliance with the proposed amendments because they may not be able, in all cases, to ''pass through'' the incomplete vehicle manufacturer's certification. NTEA claims that these manufacturers will not have a practicable and objective means of demonstrating compliance, since they lack the financial resources and capabilities to sponsor testing to the requirements. Therefore, NTEA suggested that the Agency exclude multi-stage vehicles from the proposed road testing requirements.

As explained below, NHTSA has concluded that the stopping distance requirements do not pose an unreasonable burden for final stage manufacturers. NHTSA is aware of the concerns of final stage manufacturers about road testing their vehicles. However, the final stage manufacturers can avoid the necessity of conducting independent testing by staying within the limits (''the envelope'') set by the incomplete vehicle manufacturer. In fact, S6 of Standard No. 121 currently provides that ''Compliance of vehicles manufactured in two or more stages may, at the option of the final-stage manufacturer, be demonstrated to comply with this standard by adherence to the instructions of the incomplete manufacturer provided with the vehicle in accordance with § 568.4(a)(7)(ii) and § 568.5 of title 49 of the Code of Federal Regulations.''[13] In the final rule adding this provision in response to the 9th Circuit's decision in *PACCAR*, the Agency stated that it provides directly in the regulation ''an alternative to road testing * * * that would constitute 'due care' in certification by any final-stage manufacturer that adopted it, whatever its resources and engineering expertise.'' (43 FR 48646, October 19, 1978.)

With respect to chassis-cabs, the name of each manufacturer in the chain of production is required to appear on one or more certification labels that are permanently affixed to the vehicle. (49 CFR Parts 567 and 568.) Under these regulations, certification of an incomplete vehicle that is a chassis-cab can ''pass through'' to the final stage manufacturer, provided that the final stage manufacturer takes the precautions necessary to ensure it does not invalidate the certification. The final stage manufacturer must ensure that it completes the vehicle without exceeding the GVWR and GAWRS assigned by the chassis-cab manufacturer, altering any brake system component, moving the center of gravity of the completed vehicle with the body installed outside the ''envelope'' of specifications provided by the chassis manufacturer, or otherwise violating that envelope. If the final stage manufacturer complies with all of the chassis-cab manufacturer's specifications, the final stage manufacturer can base its certification of compliance with the braking standard entirely upon the statement of the chassis-cab manufacturer and therefore will not have to recertify the vehicle.

The provision in S6 also applies to non-chassis-cabs, since the manufacturer of a non-chassis-cab is required to furnish documentation that indicates a means of compliance with applicable standards to intermediate or final stage manufacturers (49 CFR 568.4), and the final stage manufacturer is required to identify the incomplete manufacturer on the certification label that the final stage manufacturer places on the completed vehicle. As with chassis-cabs, the final stage manufacturer can avoid the necessity of conducting independent testing by staying within the envelope set by the incomplete manufacturer.

Based on the above considerations, the final stage manufacturer would only be required to certify compliance independently in those cases in which the final vehicle violates those specifications. NTEA commented that there are situations in which the final stage manufacturer ''must exceed the 'envelope' of restrictions provided by the chassis manufacturer due to customer specifications.'' The Agency believes that in virtually all such cases the body or equipment that is specified by the customer could be fitted on a different truck chassis having a larger ''envelope''. Moreover, when the customer has an overriding need to specify a particular truck chassis that cannot be completed with the desired body or equipment without exceeding the envelope, it is reasonable to expect the customer to bear the additional cost burden of assuring that the completed vehicle complies with the standard. In such situations, it is reasonable to require the final stage manufacturer to accept responsibility for certification, given the important safety concerns discussed below. The Agency emphasizes, however, that it is not necessary for final stage manufacturers to make this choice. They can instead select an appropriate incomplete vehicle that can be completed without departing from the envelope specified by the incomplete vehicle manufacturer.

Some of the manufacturers that build multi-stage vehicles and choose not to stay within the envelope are small businesses that may be unable to conduct their own road tests. While manufacturers must certify that their vehicles meet all applicable safety standards, this does not mean that every final stage manufacturer must independently conduct the specific tests set forth in an applicable standard. A final stage manufacturer may also certify compliance to the stopping distance standard based on, among other things, engineering analyses and computer simulations. Moreover, manufacturers need not conduct these operations themselves. They can utilize the services of independent engineers and testing laboratories. They can also join together through trade associations to sponsor testing or analysis. Finally, they can rely on testing and analysis performed by other parties, including brake manufacturers. Brake manufacturers typically perform extensive analyses and tests of their products and, in order to sell those products, have a strong incentive to provide their customers, the vehicle manufacturers, with information that can be used to certify the vehicle to the applicable brake standards. Some manufacturers of motor vehicle components currently provide this type of information to vehicle manufacturers. Based on the above considerations, NHTSA has concluded that manufacturers can certify compliance with the stopping distance requirements by means other than road testing.

Moreover, road testing to establish compliance with the braking requirements does not involve expensive and destructive crash testing, which cost $18,000 or more, not

[13] In today's **Federal Register** notice amending Standard No. 105 with respect to stopping distances of hydraulically-braked vehicles, the Agency is also modifying that Standard to include identical language about compliance by final stage manufacturers so that this concept expressly applies to hydraulic-braked vehicles manufactured in two or more stages, as well.

including the cost of the vehicle which is destroyed as a result of the test. Thus, while brake testing does involve some expense (the Agency estimates that a complete compliance test series for Standard No. 121 would cost $5,000), it should be feasible for manufacturers, including small manufacturers (especially in groups or through associations), to certify compliance, particularly since the road testing does not require destruction of their vehicles.

Furthermore, NHTSA is not authorized when establishing safety standards to differentiate between manufacturers on the basis of their size or financial resources. While the agency must ''consider whether any such proposed standard is reasonable, practicable and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed,'' (49 U.S.C. 30111(b)(3), formerly section 103(f)(3) of the Vehicle Safety Act), the legislative history of the Vehicle Safety Act reveals that any differences between standards for different classes of vehicles ''of course [are to] be based on the type of vehicle rather than its place of origin *or any special circumstances of its manufacturer*.'' S. Rept. 1301, 2 U.S. Code, Cong. & Admin. News, 2714 (1966), cited in *Chrysler Corp.* v. *D.O.T.*, 472 F.2d 659, 679 (6th Cir. 1972).

Strong policy reasons underlie Congress' refusal to differentiate between vehicles on the basis of the manufacturers' ''special circumstances.'' To protect unsuspecting members of the public from exposure to unreasonable risks posed by unsafe vehicles, there is good reason to require that every vehicle meet all ''minimum performance standards'' that are prescribed for vehicles of its type.

Moreover, the statute does not authorize NHTSA to grant permanent exemptions from safety standards to small manufacturers who otherwise would be covered by those standards. See *Nader* v. *Volpe*, 475 F.2d 916, 918 (D.C. Cir. 1973). While Nader involved a single manufacturer that sought to be permanently exempted from safety standards, its reasoning applies equally to classes of manufacturers that seek such exemptions. Although the Safety Act was amended after the Nader decision to permit small manufacturers to seek temporary exemptions from safety standards if they can demonstrate that compliance with the standard would cause them ''substantial economic hardship'' and that they have made a good faith effort to comply (49 U.S.C. 30113, formerly section 123 of the Vehicle Safety Act), Congress has severely restricted the agency's authority to grant such exemptions to very narrow, limited circumstances. NTEA is in effect seeking a permanent exemption from Standard No. 121 that the statute does not permit.

NHTSA emphasizes that there are important safety reasons that necessitate having a final stage manufacturer certify the completed vehicle if it does not stay within the envelope set by the incomplete vehicle manufacturer. For instance, if a final stage manufacturer adds additional components so that the completed vehicle's GVWR exceeds the recommended maximum GVWR weight specified in the envelope for the vehicle, the vehicle's braking performance could be adversely affected. As an example, a brake system designed to bring a 15,000 pound vehicle to a stable and short stop would obviously not be able to safely stop a 20,000 pound vehicle. Moreover, the brakes on such an underbraked vehicle would be prone to overheating. While it is relatively easy to understand the degradation in performance in such a gross example, the potential for reduced, safety-related performance also exists in situations were the ''violation'' of the envelope is much smaller. Similarly, if the center of gravity is made too high, a vehicle would likely be overbraked on its rear axle(s) and thus be prone to instability caused by wheel lockup.

NHTSA emphasizes that the kinds of crashes that result when a heavy vehicle is unable to stop to avoid another vehicle are very serious. As part of the cost effectiveness analysis contained in the Final Economic Analysis (FEA) for this final rule, the agency used 1992 GES data to identify a group of crashes involving heavy vehicles defined as ''unable-to-stop-in-time'' crashes. The agency examined these crashes and the number and severity of the resulting injuries in evaluating the impact of this regulation. One means of comparing the relative severity of various types of crashes is to ''convert'' the injuries at different levels of severity into ''equivalent fatalities'' [14] and to divide that by the number of crashes that resulted in those injuries. The resulting ratio, equivalent fatalities per crash, can be calculated for various types of crashes and compared to indicate the relative severity of different crash types. Using 1992 GES data, estimates were made of the equivalent fatalities per crash for multiple-vehicle crashes involving all types of vehicles, 0.01402 equivalent fatalities per crash, for multiple-vehicle crashes involving heavy vehicles, 0.02089 equivalent fatalities per crash, and for the ''unable-to-stop-in-time'' crashes mentioned above, 0.03634. Comparing the rates of equivalent fatalities indicate that not only are multiple-vehicle crashes involving heavy vehicles 49% more severe than all multiple-vehicle crashes, but the ''unable-to-stop-in-time'' crashes, which are the types of crashes affected by this final rule, are 159% more severe than all multiple-vehicle crashes in general. Also using 1992 GES data, the agency made separate estimates of the rate of equivalent fatalities per crash for the heavy vehicle occupants and the occupants of other involved vehicles. This was done for both multiple-vehicle crashes involving heavy vehicles and for the ''unable-to-stop-in-time'' crashes. The comparison of these rates shows that the ''unable-to-stop-in-time'' crashes are 31% more severe in terms of injuries to the heavy vehicle occupant and 79% more severe for the occupants of other involved vehicles than multiple-vehicle crashes involving heavy vehicles.

[14] The basic methodology used to convert injuries at various levels of severity into equivalent fatalities is outlined in the FEA for this final rule.

G. Costs

As explained in detail in the FEA, the costs associated with the rulemaking involve additional testing costs and hardware/equipment costs. The agency estimates the minimum initial testing costs associated with reinstating stopping distance requirements for all heavy air-braked vehicles would be about $6 million. As noted in the FEA, the estimated annual compliance testing costs in years following the effective dates of this final rule are estimated to be about $2 million. Assuming the industry continues to produce about 208,500 heavy Class 5–8 air-braked vehicles per year (which are the largest heavy vehicles and tractor trailers), the initial testing cost per vehicle would be about $29 and for later years the testing cost per vehicle would be about $10.

The hardware and equipment costs of meeting the proposed stopping distance requirements for air braked heavy vehicles are based on the anticipated improvements to heavy vehicles. The agency notes that all of the changes made to meet these requirements would affect vehicles operating in the fully loaded, or nearly fully loaded configurations.

These improvements in braking performance, which are achieved by substituting air chambers, slack adjusters and brake linings, are estimated to be necessary on about 104,000 air-braked vehicles, including both truck tractors and single-unit trucks. The average cost per vehicle of

these changes is estimated to be $50, resulting in a total cost of $5.21 million, which is the total estimated cost for vehicle modifications necessitated by this final rule.

The total estimated initial cost impact of this proposal is $11.21 million ($6.0 million in compliance test costs plus $5.21 million in vehicle modification costs), which for an estimated annual production of 208,500 air-braked equipped vehicles, is an average of about $54 per vehicle.

The total estimated outyear cost impact of this proposal is $7.21 million ($2.0 million in compliance test costs plus $5.21 million in vehicle modification costs), which for an estimated annual production of 208,500 air braked equipped vehicles, is an average of about $35 per vehicle.

VI. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866. NHTSA has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures. This action has been determined to be not ''significant'' under those policies and procedures.

A FEA setting forth the agency's detailed analysis of the benefits and costs of this rulemaking (along with the other rules issued today) has been prepared and been placed in the docket. This rulemaking is based on the FEA and all additional data available to the agency. The Agency estimates that reinstating the stopping distance requirements for Standard No. 121 will result in an average of approximately 3.2 lives saved per year and 84 injuries prevented per year. As mentioned above, the agency estimates that the initial annual costs attributable to these requirements are approximately $11.21 million ($6.00 million for compliance testing and $5.21 million for net equipment costs) and the outyear annual costs attributable to these requirements are approximately $7.21 million ($2.00 million for compliance testing and $5.21 million for net equipment costs).

Based on its analysis, the agency concludes that the requirements will improve safety by ensuring that all heavy vehicles are capable of stopping within a specified, safe distance. Based on information detailed in the previous section, the agency believes that implementing the stopping distance requirements for heavy vehicles will not result in significant costs since most of these vehicles currently comply with the reinstated requirements. For those vehicles that do not currently comply with the requirements, the agency believes that they could be upgraded by substituting other with currently produced braking components for those now used on these vehicles.

Since these components are not significantly more expensive than those used in poorer performing brake systems, the net cost of substituting these components will not be significant and is estimated to be about $50 for each vehicle that requires such changes.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. There may be a small number of intermediate and final stage manufacturers that are small businesses that may be impacted by this final rule, but as discussed previously, the Agency does not believe that that impact is substantial, particularly in comparison to the possible crash-related consequences of vehicles produced by such manufacturers not complying with the rule.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this rule.

D. National Environmental Policy Act

NHTSA has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment. No changes in existing production or disposal processes will result, except that there is a reduction in these factors resulting from the removal of the ALV. There will be a weight increase of a few pounds per tractor with the installation of a BPV on tractors, but such a small increase should not have any significant effect on fuel consumption. Nor should production and disposal processes have a significant adverse affect on the environment.

E. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications warranting the preparation of a Federalism Assessment.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, this notice amends Standard No. 121, Air Brake Systems, in Title 49 of the Code of Federal Regulations at Part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166, delegation of authority at 49 CFR 1.50.

§ 571.121 [Amended]

2. Section 571.121, is amended by removing the undesignated text following paragraph (g) in S3; in S4 by adding the definition for ''Wheel lockup;'' by revising S5.3.1, S5.3.1.1, and Table II; by deleting S5.3.2, S5.3.2.1, and S5.3.2.2; by reserving S5.3.2, and by revising S5.7.1 to read as follows:

* * * * *

Wheel lockup means 100 percent wheel slip.

* * * * *

S5.3.1 *Stopping distance—trucks and buses.* When stopped six times for each combination of vehicle type, weight, and speed specified in S5.3.1.1, in the sequence specified in Table I, each truck tractor manufactured on or after March 1, 1997 and each single unit vehicle manufactured on or after March 1, 1998 shall stop at least once in not more than the distance specified in Table II, measured from the point at which movement of the service brake control begins, without any part of the vehicle leaving the roadway, and with wheel lockup permitted only as follows:

(a) At vehicle speeds above 20 mph, any wheel on a nonsteerable axle other than the two rearmost nonliftable, nonsteerable axles may lock up, for any duration. The wheels on the two rearmost nonliftable, nonsteerable axles may lock up according to (b).

(b) At vehicle speeds above 20 mph, one wheel on any axle or two wheels on any tandem may lock up for any duration.

(c) At vehicle speeds above 20 mph, any wheel not permitted to lock in (a) or (b) may lock up repeatedly, with each lockup occurring for a duration of one second or less.

(d) At vehicle speeds of 20 mph or less, any wheel may lock up for any duration.

Table I.—Stopping Sequence

1. Burnish.
2. Stops with vehicle at gross vehicle weight rating:
   (a) 60 mph service brake stops on a peak friction coefficient surface of 0.9, for a truck tractor with a loaded unbraked control trailer, or for a single-unit vehicle.
   (b) 30 mph service brake stops on a peak friction coefficient surface of 0.5, for a truck tractor with a loaded unbraked control trailer.
   (c) 60 mph emergency brake stops on a peak friction coefficient surface of 0.9, for a single-unit vehicle. Truck tractors are not required to be tested in the loaded condition.
3. Parking brake test with vehicle loaded to GVWR.
4. Stops with vehicle at unloaded weight plus up to 500 lbs.
   (a) 60 mph service brake stops on a peak friction coefficient surface of 0.9, for a truck tractor or for a single-unit vehicle.
   (b) 30 mph service brake stops on a peak friction coefficient surface of 0.5, for a truck tractor.
   (c) 60 mph emergency brake stops on a peak friction coefficient surface of 0.9, for a truck tractor or for a single-unit vehicle.
5. Parking brake test with vehicle at unloaded weight plus up to 500 lbs.
6. Final inspection of service brake system for condition of adjustment.

S5.3.1.1 Stop the vehicle from 60 mph on a surface with a peak friction coefficient of 0.9 with the vehicle loaded as follows: (a) loaded to its GVWR, (b) in the Bobtail configuration (truck-tractors only) plus up to 500 pounds, and (c) at its unloaded vehicle weight (except for a truck tractor) plus up to 500 pounds (including driver and instrumentation). If the speed attainable in two miles is less than 60 mph, the vehicle shall stop from a speed in Table II that is 4 to 8 mph less than the speed attainable in 2 miles.

TABLE II.—STOPPING DISTANCE

[In feet]

Vehicle speed in miles per hour	Service brake				Emergency brake	
	PFC 0.9 (1)	PFC 0.9 (2)	PFC 0.9 (3)	PFC 0.9 (4)	PFC 0.9 (5)	PFC 0.9 (6)
20	32	35	38	40	83	85
25	49	54	59	62	123	131
30	70	78	84	89	170	186
35	96	106	114	121	225	250
40	125	138	149	158	288	325
45	158	175	189	200	358	409
50	195	216	233	247	435	504
55	236	261	281	299	520	608
60	280	310	335	355	613	720

Note: (1) Loaded and unloaded buses; (2) Loaded single unit trucks; (3) Unloaded truck tractors and single unit trucks; (4) Loaded truck tractors tested with an unbraked control trailer; (5) All vehicles except truck tractors; (6) Unloaaded truck tractors.

* * * * *

S5.7.1 *Emergency brake system performance.* When stopped six times for each combination of weight and speed specified in S5.3.1.1, except for a loaded truck tractor with an unbraked control trailer, on a road surface having a PFC of 0.9, with a single failure in the service brake system of a part designed to contain compressed air or brake fluid (except failure of a common valve, manifold, brake fluid housing, or brake chamber housing), the vehicle shall stop at least once in not more than the distance specified in Column 5 of Table II, measured from the point at which movement of the service brake control begins, except that a truck-tractor tested at its unloaded vehicle weight plus up to 500 pounds shall stop at least once in not more than the distance specified in Column 6 of Table II. The stop shall be made without any part of the vehicle leaving the roadway.

* * * * *

Issued on: March 1, 1995.

Ricardo Martinez, M.D.

Administrator.

[FR Doc. 95–5413 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–59–P

49 CFR Part 571

[Docket No. 93–07; Notice 3]

RIN 2127–AE21

Federal Motor Vehicle Safety Standards; Stopping Distance Requirements for Vehicles Equipped With Hydraulic Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule establishes stopping distance performance requirements in Standard No. 105, Hydraulic Brake Systems, for trucks,

buses, and multipurpose passenger vehicles (MPVs) that have a gross vehicle weight ratings (GVWRs) over 10,000 pounds and that are equipped with hydraulic brake systems. The requirements specify the distances in which different types of medium and heavy vehicles must come to a complete stop from a speed of 60 mph on a high coefficient of friction surface. The requirements are designed to reduce the number and severity of crashes involving these vehicles.

This notice is one part of the agency's comprehensive effort to improve the braking ability of medium and heavy vehicles. In another final rule published elsewhere in today's **Federal Register**, the agency is adopting identical stopping distance requirements for medium and heavy vehicles that are equipped with air brake systems. In a third final rule, that responds to the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the agency is requiring medium and heavy vehicles to be equipped with an antilock brake system (ABS) to improve the lateral stability and control of these vehicles during braking.

DATES: *Effective Dates:* The amendments become effective on March 1, 1999.

Petitions for Reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA no later than April 10, 1995.

ADDRESSES: Petitions for reconsideration of this rule should refer to Docket 93–07; Notice 3 and should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202–366–5892).

SUPPLEMENTARY INFORMATION:

I. Background

A. Brake Related Crashes

Medium and heavy vehicles [1] are involved in thousands of motor vehicle crashes each year. One of the most important factors that contributes to these crashes is brake system performance. Crashes in which braking is a contributory factor can be further subdivided into (1) crashes due to brake failures or defective brakes, (2) runaways on downgrades, due to maladjusted or overheated brakes, (3) crashes in which vehicles are unable to stop in time, and (4) loss-of-control crashes due primarily to locked wheels during braking.

This final rule amending Standard No. 105, Hydraulic Brake Systems, to establish stopping distance requirements for hydraulically braked vehicles,[2] and the companion final rule amending Standard No. 121, Air Brake Systems (49 CFR 571.121), to reinstate stopping distance requirements for air braked heavy vehicles, will reduce the severity of or prevent crashes attributable to a vehicle's inability to stop in time.[3] In these crashes, the heavy vehicle's brakes function, but do not stop the vehicle quickly enough to avoid a crash. One way to reduce the severity or number of such crashes is to improve heavy vehicle stopping performance by reducing the distance needed to stop a vehicle. Even if crashes of this type were not totally prevented, improvements in stopping distance performance reduce collision impact speeds, and thus reduce crash severity.

The following estimates regarding heavy vehicle crashes are from NHTSA's 1992 General Estimates System (GES) which is based on data transcribed from a nationally representative sample of state police accident reports (PARs) and the Fatal Accident Reporting System (FARS). NHTSA estimates that in 1992 there were about 168,000 crashes involving heavy combination vehicles (excluding truck tractors when operating bobtail, i.e., without a trailer). These crashes resulted in about 13,600 injuries and 387 fatalities to truck occupants and about 51,500 injuries and 2452 fatalities to occupants of other involved vehicles. For bobtail truck tractors alone, the agency estimates that there were about 8,400 crashes resulting in about 1,200 injuries and 39 fatalities to truck occupants and about 2,600 injuries and 178 fatalities to occupants of other involved vehicles. For heavy single-unit trucks, the agency estimates that there were about 192,600 crashes resulting in about 15,700 injuries and 165 fatalities to truck occupants and about 48,300 injuries and 891 fatalities to occupants of other involved vehicles. In addition, crashes involving heavy vehicles result in more expensive and severe property damage than crashes involving light vehicles.

It is very difficult to quantify the number of crashes in which a vehicle's brakes are unable to stop the vehicle in time. NHTSA estimates that in 1992 there were about 18,000 crashes involving heavy combination vehicles (excluding bobtail truck tractors). These crashes resulted in about 1,800 injuries and 57 fatalities to truck occupants and about 8,400 injuries and 754 fatalities to occupants of other involved vehicles. For bobtail truck tractors alone, the agency estimates that there were about 260 crashes resulting in about 100 injuries and 7 fatalities to truck occupants and about 240 injuries and 48 fatalities to occupants of other involved vehicles. For heavy single-unit trucks, the agency estimates that there were about 30,100 crashes resulting in about 4,200 injuries and 17 fatalities to truck occupants and about 15,000 injuries and 276 fatalities to occupants of other involved vehicles. The Final Regulatory Evaluation (FRE) provides greater detail about how today's final rules will reduce injuries and fatalities resulting from such crashes.

The agency emphasizes that not all inability-to-stop-in-time crashes are preventable. Nevertheless, improvements to heavy vehicle brake systems should prevent or reduce the severity of a significant number of these crashes.

B. Brake Designs and Equipment

In order to understand the discussion of braking in this preamble, it is necessary to be familiar with several devices employed in braking systems. As explained in greater detail in the companion final rules about stopping distances for air-braked vehicles and about lateral control and stability, manufacturers have developed several devices related to the braking of hydraulically-braked heavy vehicles,

[1] Hereafter, these vehicles which have a gross vehicle weight rating (GVWR) of 10,000 pounds or more are referred to as heavy vehicles.

[2] Hydraulic brake systems are used on most single unit vehicles with gross vehicle weight ratings (GVWRs) of 26,000 pounds or less and on many medium and heavy trucks and buses with GVWRs between 26,000 pounds and 33,000 pounds. Hydraulic brakes are available on single unit vehicles with GVWRs up to 46,000 pounds, but are used to a lesser degree with such vehicles. Heavy vehicles not equipped with hydraulic brakes are equipped with air brake systems.

[3] Today's companion final rule to require heavy vehicles to be equipped with antilock brake systems (ABS) will prevent braking-induced loss-of-control crashes.

including load proportioning valves (LPVs) and antilock brake systems (ABS). LPVs change the brake proportioning to the drive axle after mechanically sensing the vehicle's load, and ABSs automatically control the amount of braking pressure applied to a wheel so as to prevent wheel lockup, thus increasing stability and control in emergency stops. As explained in the companion notices, these devices can also reduce stopping distances.

II. NHTSA Activities

A. Regulatory History

As initially promulgated, Standard No. 105, Hydraulic Brake Systems (49 CFR 571.105), set performance requirements for motor vehicles with hydraulic service brakes. (37 FR 17970, September 2, 1972.) The 1972 rule required, among other things, that heavy vehicles stop from 60 mph within 245 feet when in the lightly loaded condition and within 553 feet under partial failure conditions. Some petitions for reconsideration challenged the setting of stopping distance requirements for hydraulically-braked vehicles that were more stringent than those set for air-braked vehicles in Standard No. 121. While the initial stopping distance requirement of 245 feet in Standard No. 121 was identical to Standard No. 105's requirement, Standard No. 121 was later revised to require stopping within 258 feet and then 293 feet.

The requirements for air-braked vehicles were to become effective on September 1, 1973, and those for hydraulic-braked vehicles, on September 1, 1974. NHTSA extended the effective dates for the stopping distance requirements in Standard No. 105 and Standard No. 121. (37 FR 3905, February 24, 1972; 38 FR 3047, February 1, 1973; 39 FR 17550, 17563, May 17, 1974.) Prior to the final effective date for Standard No. 105, the amendments pertaining to heavy vehicles were withdrawn, so the requirements for heavy hydraulic-braked trucks and buses never went into effect. (40 FR 18411, April 28, 1975.) The agency concluded that the requirements that were being withdrawn could not be justified ''on the basis of the data available at this time.'' The agency noted that its decision to withdraw the amendment implementing requirements for vehicles other than passenger cars was based on uncertainty as to the achievable safety benefits relative to the costs of meeting those requirements, rather than on an explicit determination that the requirements were not justified. Notwithstanding this decision, the agency emphasized that ''truck braking is in many cases substantially poorer than passenger car braking, and that the generally longer stopping distances and the greater severity of truck accidents justify a safety standard for these vehicles.''

There are two primary reasons for the substantial costs that would have been involved in meeting those requirements. The first reason was the level of stringency of the requirements: the stopping distance requirement from 60 mph was 246 feet, which was the original requirement implemented for air-braked vehicles in Standard No. 121 that was later revised to 293 feet. The second reason relates to the state-of-the-art of hydraulic brake system technology in 1975 versus that of today. As discussed in detail in the Final Regulatory Evaluation (FRE), the requirements being implemented by this notice will not require any changes in the design or performance of hydraulically-braked heavy vehicles.

Since its decision in 1975 to narrow Standard No. 105's applicability, NHTSA has issued several amendments extending its applicability to certain types of vehicles. In 1976, the agency extended the Standard's applicability to all school buses. (41 FR 2391, January 16, 1976.) In 1981, it extended the standard's applicability on a general basis (with some limitations) to trucks, all types of buses, and MPVs with a GVWR of 10,000 pounds or less. (46 FR 55, January 2, 1981.) As for trucks, buses, and MPVs with a GVWR greater than 10,000 pounds, the agency extended the requirements for braking with partial hydraulic system failures and power booster unit failures. However, the service and parking brake performance requirements, including those for stopping distances, have not been re-adopted for hydraulically-braked trucks and non-school buses with GVWRs over 10,000 pounds. The reader should refer to the February 1993 NPRMs and today's companion final rules for a detailed discussion of the regulatory history.

These requirements have received a great deal of agency and judicial attention. (58 FR 11009, February 23, 1993.) Along with certain other provisions, the stopping distance requirements for air-braked vehicles were invalidated by the United States Court of Appeals for the 9th Circuit in *PACCAR* v. *NHTSA*, 573 F.2d 632, (9th Cir. 1978) cert. denied, 439 U.S. 862 (1978).

While PACCAR involved air-braked vehicles, it is relevant to hydraulically-braked vehicles as well. The stability and control final rule contains a detailed discussion about PACCAR and how the agency has responded to that decision. As mentioned earlier, the stopping distance requirements in this final rule are significantly longer than those that were rescinded in 1975.

However, as also discussed earlier, the same stopping distance requirements that were implemented in 1975 for air-braked vehicles were later extended to levels that are close to those included in this notice. One significant difference between the original requirements in 1975 for hydraulically braked, heavy vehicles and those contained in today's final rule is that the agency has decided to specify different stopping distances for different configurations of heavy vehicles. Today's requirements can further be distinguished from those invalidated in the 1970s, since manufacturers will not need to significantly redesign their brakes or use overly aggressive foundation brakes to comply with today's requirements.

Even though the stopping distance requirements being specified in today's final rule are less stringent for some vehicle configurations than those invalidated by PACCAR for air-braked vehicles, the agency believes that the braking requirements in today's final rules, taken as a whole, significantly enhance the overall braking performance of hydraulically-braked vehicles given the agency's decision to require these vehicles to be equipped with ABS.

B. Agency Research

As part of its review of heavy vehicle braking, NHTSA issued a report entitled ''NHTSA Heavy Duty Vehicle Brake Research Program Report No. 4—Stopping Capability of Hydraulically Braked Vehicles'' (DOT HS 806 860, October 1985). That report was based on a comprehensive testing of twelve hydraulically-braked vehicles ranging in weight from 14,800 to 46,000 pounds in both the empty and loaded conditions. The straight line stopping distance tests measured the shortest possible stop within a 12-foot-wide lane without locking up more than one wheel per axle or two wheels per tandem axle at speeds greater than 20 mph. At 60 mph, stopping distances ranged from 214 feet to 396 feet. Among other things, the agency found that the ability to stop in a short distance without loss of control is primarily a function of front/rear braking force distribution. Vehicles with brake force distributions closest to their dynamic weight distributions were the best performers.

C. Heavy Vehicle Safety Report to Congress

In response to section 9107 of the Truck and Bus Regulatory Reform Act of 1988, the agency submitted a report to Congress entitled ''Improved Brake Systems for Commercial Vehicles.'' (DOT HS 807 706, April 1991)[4] While the report focuses on air brakes systems, much of the information is relevant to hydraulically-braked heavy vehicles. After discussing crash data concerning heavy vehicle brake systems, the report explained factors related to braking effectiveness and stability and control during braking. The report mentioned that stopping distances and vehicle stability could be improved by equipping heavy vehicles with LPVs and ABS.

III. Agency Proposal

On February 23, 1993, NHTSA proposed to amend Standard No. 105 to establish different stopping distance requirements for different types of heavy vehicles equipped with hydraulic brake systems, when making stops from 60 mph on a high coefficient of friction surface. (58 FR 11003.) The agency tentatively concluded that establishing the same stopping distance requirement for all heavy vehicles with fully operational service brakes would be inappropriate, since it would be too stringent for unloaded single unit trucks but not stringent enough for buses. The proposed stopping distances were based on the agency's analysis of the available data, especially the stopping distance results in the VRTC reports.

NHTSA explained that its long-term objective is to upgrade the braking efficiency of heavy vehicles to enable them to make controlled, stable stops, under all loading and road surface conditions. The agency believed that the proposed requirements would reduce the disparity in stopping distance performance between heavy vehicles and passenger cars, while assuring that the requirements' costs are reasonable. The agency proposed stopping distance requirements for vehicles equipped with hydraulic brake systems consistent with the stopping distance requirements for air-braked heavy vehicles. These requirements would take effect two years after issuance of the final rule. The agency decided not to propose the first effectiveness test, which involves the preburnish condition. However, it proposed the second effectiveness test, where the vehicle is tested at its GVWR to assure full braking power, and the third effectiveness test where the vehicle is tested in the lightly loaded vehicle condition to assure reasonable brake balance.

IV. Comments on the Proposal

NHTSA received 29 comments in response to the NPRM. Commenters included heavy vehicle manufacturers, brake manufacturers, safety advocacy groups, heavy vehicle users, industry trade associations, and other individuals. The American Automobile Manufacturers Association (AAMA) submitted joint comments on behalf of the eight major domestic manufacturers of heavy vehicles: Chrysler, Ford, Freightliner, General Motors (GM), Mack Trucks, Navistar, PACCAR, and Volvo-GM.

The commenters generally supported the agency's decision to establish stopping distance requirements. However, they offered mixed views about the specific stopping distances being proposed. GM, Navistar, Heavy Duty Brake Manufacturers Council (HDBMC), and Rockwell WABCO stated that the proposed stopping distance requirements are appropriate. In contrast, the Insurance Institute for Highway Safety (IIHS), the Coalition for Consumer Health, and Advocates for Highway Safety (Advocates) believed that the required distances for trucks and buses should be shorter. Advocates stated that the proposal did little more than ''grandfather'' existing braking capabilities and therefore would not result in the best available braking performance for large trucks.

Commenters also addressed specific issues raised in the NPRM, including the requirements' applicability to school buses, the need for the first and fourth effectiveness tests, the vehicle test speed, the test surface specification, the wheel lock up restrictions, the initial brake temperature, the failed system test, the vehicle loading, the parking brake test, the burnish procedures, and the implementation schedule for the requirements. More specific discussions of these comments, and the agency's responses to them, are set forth either below or in the stopping distance rule for Standard No. 121.[5]

V. Agency Decision

A. Overview

Based on the FARS and other crash data, test data from the agency's heavy vehicle brake research program, comments to the NPRM, and other available information, NHTSA has decided to amend Standard No. 105 to establish stopping distance performance requirements for heavy vehicles that are equipped with hydraulic brake systems. The requirements, which apply to 60 mph stops on a high coefficient of friction surface, specify different stopping distance requirements for three different types of heavy vehicle configurations: (1) loaded and unloaded buses, (2) loaded single unit trucks, and (3) empty single unit trucks. The requirements are designed to standardize the distance needed for all heavy vehicles to come to a complete stop, thereby reducing the number and severity of crashes.

This notice is one part of the agency's comprehensive effort to improve the braking ability of heavy vehicles. In another final rule published elsewhere in today's **Federal Register**, the agency is adopting identical stopping distance requirements for comparable heavy vehicles that are equipped with air brake systems. The agency believes that it is appropriate to specify the same stopping distance requirements for similar vehicles. In a third final rule, the agency is responding to the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 by requiring heavy vehicles to be equipped with an antilock brake system to improve the lateral stability and control of these vehicles during braking.

B. Stopping Distance Requirements

Based on its testing at VRTC, NHTSA proposed different stopping distances for various categories of vehicles, as follows:

Loaded and Unloaded Buses.....280 ft.
Loaded Single-Unit Trucks .....310 ft.
Empty Single-Unit Trucks.....335 ft.

The agency reasoned that a single stopping distance requirement for all heavy vehicles with fully operational service brakes would be too stringent for unloaded single unit trucks, but not be stringent enough for buses. Based on the VRTC test results, the agency anticipated that manufacturers would not have to make changes to the hydraulic braking systems of their vehicles to comply with the proposed stopping distance requirements.

AAMA and most other industry commenters agreed with the stopping distance values proposed for the various vehicle configurations. GM, Navistar,

[4] The report may be examined at the agency's Technical Reference Office, room 5108, at no charge. It is available from the National Technical Information Service (NTIS), Springfield, VA 22161 for a small charge.

[5] The stopping distance rule for air-braked vehicles discusses the issues of the test surface, wheel lock restrictions, initial brake temperature, the failed system test, vehicle loading, the parking brake test, and burnish procedures.

Heavy Duty Brake Manufacturers Council (HDBMC), and Rockwell WABCO commented that they believed that the proposed stopping distance requirements are appropriate. ATA agreed with the proposal to specify different stopping distances for different types and loadings of vehicles. It also agreed with specifying the same stopping distances for the same types of air-braked and hydraulically-braked vehicles under the same loading conditions.

In contrast, other commenters stated that the proposed stopping distances were not sufficiently stringent. Advocates stated that the proposed stopping distances simply ratify braking distances currently achieved by manufacturers and do not seek to improve real-world braking performance. It stated that except for the 280-foot requirement for buses, the other proposed stopping distances are longer than the 293 feet established before PACCAR. Similarly, IIHS stated that the proposals do not go far enough toward requiring the best available braking for heavy vehicles.

Based on the public comments and other available information, especially the VRTC test results, NHTSA has decided to specify different stopping distances for three separate categories of vehicles, when tested at a speed of 60 mph on a surface with a PFC of 0.9, as follows:

Loaded and Unloaded Buses.....280 ft.
Loaded Single-Unit Trucks .....310 ft.
Unloaded Single-Unit Trucks .....335 ft.

NHTSA believes that these stopping distances, combined with the stability and control final rule, will ensure that heavy vehicles make short stable stops within a reasonable distance. The agency further notes that the companion notice to require heavy vehicles to be equipped with antilock brake systems will also help to improve the braking performance of those vehicles enough to enable them to comply with the stopping distance requirements.

C. First Effectiveness Test

The first effectiveness test in Standard No. 105, which is commonly known as the ''preburnish test,'' measures brake performance very early in a vehicle's life. School buses are the only heavy vehicle type currently subject to the first effectiveness test (and to Standard No. 105's other stopping distance requirements.)

In the NPRM, NHTSA did not propose applying the preburnish test to other heavy vehicles. The agency stated that the first effectiveness test would continue to apply to school buses, since it did not want to modify the Standard's current requirements. The agency reasoned that subjecting school buses (but not other heavy vehicles) to the first effectiveness test was appropriate given the provisions in the vehicle safety law pertaining to school buses (codified as 49 U.S.C. 301), and the ''stop-and-go'' duty cycle of school buses. The agency requested comment on whether to apply the first effectiveness test to heavy vehicles in general and whether to retain the test for school buses.

AAMA, AlliedSignal, and HDBMC stated that heavy vehicles, including school buses, should not be subject to the first effectiveness test and the 30-mph second effectiveness test. AlliedSignal commented that excluding hydraulically braked school buses from the first effectiveness test would be consistent with the agency's intent for consistency between hydraulically braked and air-braked vehicles. AlliedSignal also stated that the intended usage of non-school buses and school buses is nearly identical, and that chassis components are nearly identical. AAMA commented that school buses and non-school buses should have standardized braking requirements. AAMA disagreed with the agency's statement that the school bus provisions of the law have a bearing on the need for a first effectiveness or 30-mph second effectiveness requirements for school buses. Straight-Stop and Arent Fox recommended that transit buses and school buses be tested at speeds typical of their normal use such as 20 to 30 mph. Chrysler agreed with the agency's proposal not to apply the first effectiveness test to heavy vehicles, except for school buses.

Advocates requested that the agency apply the first effectiveness test to all hydraulic braked vehicles, not just school buses. It claimed that the new non-asbestos linings tend to swell early in the service lives of new brakes. As a result, it believed that the stopping distance would be degraded during this period, a phenomenon that would be detrimental to safety. Advocates argued that the agency cannot arbitrarily dismiss the first effectiveness test with an assertion that it is not aware of any ''green brake'' crashes.

After reviewing the comments and other available information, NHTSA has decided not to apply the preburnish test to all heavy vehicles equipped with hydraulic brakes. It has also decided that the test should not apply to school buses. As explained in the NPRM, NHTSA is not aware of any crashes involving hydraulically braked heavy vehicles caused by ''green'' brake linings. Therefore, the agency has determined that there is no need to apply the preburnish test to heavy vehicles. The agency notes that its decision not to apply the preburnish test to heavy vehicles results in the requirements in Standard No. 105 and Standard No. 121 being consistent for similar vehicles given the absence of a preburnish test in FMVSS No. 121 for air-braked school buses.[6]

With respect to non-asbestos linings, NHTSA agrees that there is a tendency for such linings to swell early in the life of the new brakes. However, the agency has already addressed this issue in greater detail in a NPRM on the brake adjustment procedure for brake burnish of heavy vehicles (56 FR 66395, December 23, 1991). The agency concluded that the swelling of the non-asbestos linings has no effect on their service life or on the service brake performance of the vehicle.

D. Second Effectiveness Test

The second effectiveness test in Standard No. 105 assesses brake performance when a vehicle is in its fully loaded condition. In the NPRM, NHTSA proposed extending the second effectiveness test to hydraulically-braked heavy vehicles. The agency explained that this test replicates one of the most common loading conditions for heavy vehicles. The agency tentatively concluded that it would be in the interests of safety to establish stopping distance requirements for hydraulically-braked heavy vehicles in the fully loaded condition (at GVWR).

NHTSA notes that, unlike the requirements in Standard No. 121 which specify 60-mph stops, the second effectiveness test includes 30-mph stops as well as 60-mph stops. The agency proposed applying the 30-mph test to school buses, since it is similar to their in-service stop-and-go operation. Although there is no similar 30-mph road test for air-braked school buses, the brake assemblies of these vehicles are required to be tested on a dynamometer under section S5.4 of Standard No. 121. These tests evaluate the capability of a brake assembly in a stop-and-go duty cycle. Section S5.4.2, Brake Power, requires that the brake be capable of making 10 consecutive decelerations from 50 mph to 15 mph at an average deceleration rate of 9 feet per second. Therefore, the agency further believed that the 30-mph portion of the second effectiveness tests should be retained for school buses only, given their stop-and-go duty cycle.

[6] The agency decided not to include a preburnish test in Standard No. 135, reasoning that few vehicles are driven any length of time in an unburnished condition.

AlliedSignal was the sole commenter on the issue of the 30-mph stopping distances. It stated that its testing of a current system showed that the proposed requirement of 70 feet for the 30-mph second effectiveness test would be difficult to meet without major brake redesign. It therefore recommended that the requirement be increased to at least 78 feet if the agency decides not to exclude school buses from this test.

NHTSA has decided to apply the test requirement to school buses with a stopping distance of 70 feet, as proposed. The agency notes that no vehicle manufacturer objected to the proposed stopping distance value. Further, NHTSA's test data (NHTSA Heavy-Duty Vehicle Brake Research Program Report No. 4—Stopping Capability of Hydraulically-Braked Vehicles) show that 70 feet is a reasonable requirement from 30 mph for the second effectiveness test.

NHTSA acknowledges that some transit buses have stop-and-go duty cycles similar to school buses. However, such vehicles are typically equipped with air brake systems, and would therefore be required to have their brake assemblies dynamometer tested. The 30-mph second effectiveness test would not apply to these vehicles because they are not school buses.

E. Leadtime

In the NPRM, NHTSA proposed that the stopping distance requirements become effective two years after the final rule's publication.

AAMA supported the proposed effective date, provided that the agency incorporated its recommended modifications in the final rule. Rockwell recommended that the stopping distance requirements and the stability performance requirements be combined so that the effective dates for both rulemakings are concurrent. Several commenters to the stability and control NPRM, including AAMA, made the same suggestion. AAMA noted that since ABS can have a direct influence on achievable stopping distance, it is important to optimize brake system performance by taking both stopping distance and stability into account.

On April 12, 1994, NHTSA published a supplemental notice of proposed rulemaking (59 FR 17326) that proposed the following implementation schedule for both the stopping distance and lateral stability and control requirements:

Truck tractors ....2 years after final rule (1996)
Trailers.....3 years after final rule (1997)
Air-braked single unit trucks and buses .....3 years after final rule (1997)
Hydraulic-braked single unit trucks and buses....4 years after final rule (1998).

The agency reasoned that making the effective dates for the two rulemakings concurrent would facilitate a more orderly implementation process, avoid the need for manufacturers to redesign the brakes on individual vehicles twice, and reduce the development and compliance costs that manufacturers would face as a result of these regulations. NHTSA requested comments about the implementation schedule proposed in the supplemental notice.

As the stability and control final rule discusses in detail in the section titled ''Implementation Schedule,'' NHTSA has decided to adopt an implementation schedule similar to the one proposed in the SNPRM. Specifically, hydraulically-braked heavy vehicles manufactured on or after March 1, 1999 will have to be equipped with ABS and comply with the high coefficient of friction stopping distance requirements. The agency has decided that these effective dates, which were widely supported by vehicle manufacturers, brake manufacturers, and safety advocacy groups, will provide for an efficient implementation of the heavy vehicle braking requirements.

F. Costs

As indicated earlier, NHTSA does not anticipate the need for vehicle manufacturers to change the design of the foundation brake system of heavy, hydraulically braked vehicles in order to comply with the requirements of this final rule. The only costs associated with this rulemaking are those related to compliance testing costs. As detailed in the FRE, the agency estimates these costs to be $1.030 million, or an average per-vehicle cost of $5.30.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866. NHTSA has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures. This action has been determined to be not ''significant'' under those policies and procedures.

A FRE setting forth the agency's detailed analysis of the benefits and costs of this rulemaking (along with the other rules issued today) has been prepared and been placed in the docket. As mentioned above, the agency estimates that the costs attributable to these requirements are approximately $1.03 million for testing costs.

Based on its analysis, the agency concludes that the requirements will improve safety by ensuring that all heavy vehicles are capable of stopping within a safe distance. The agency believes that implementing the stopping distance requirements for heavy vehicles will not result in significant costs since the braking performance of currently produced vehicles is adequate for these vehicles to comply with the reinstated requirements.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. As mentioned above, most heavy vehicles will comply with the requirements without the need for significant changes. In addition, the agency is not aware of any manufacturer of heavy vehicles or hydraulic brake systems that is considered to be a small entity. There are no added costs associated with modifying a vehicle's brake system to comply with the requirements implemented by this final rule. The industry test cost per vehicle to assure compliance with the proposal is very small: $5.30. Accordingly, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this proposed rule.

D. National Environmental Policy Act

NHTSA has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment. No changes in existing production or disposal processes will result, except that there is a reduction resulting from the removal of the ALV. Nor should production and disposal processes have a significant adverse affect on the environment.

E. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency is amending Standard No. 105, Hydraulic Brake Systems, in Title 49 of the Code of Federal Regulations at Part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166, delegation of authority at 49 CFR 1.50.

§ 571.105 [Amended]

2. Section 571.105 is amended by adding the definition of ''wheel lockup'' in S4 and by revising Table II, S5.1.1, S5.1.1.2, S6, S6.9, and S6.10; and by adding S6.9.1, S6.9.2, S6.10.1 and S6.10.2 to read as follows:

* * * * *

Wheel lockup means 100 percent wheel slip.

* * * * *

TABLE II.—STOPPING DISTANCES

Vehicle test speed (miles per hour)	Stopping distance in feet for tests indicated															
	I—1st (preburnished) & 4th effectiveness; spike effectiveness check				II—2d effectiveness				III—3d (lightly loaded vehicles) effectiveness					IV—Inoperative brake power and power assist unit; partial failure		
	(a)	(b)	(c)	(d)	(a)	(b) & (c)	(d)	(e)	(a)	(b)	(c)	(d)	(e)	(a)	(b) & (c)	(d) & (e)
30	[1] 57	[1,2] 65	[1,2] 69 (1st) [1,2] 65 and spike)	(4th												
			[1] 72	[1,2] 88	[1] 54	[1] 57	[1,2] 78	70	51	57	65	84	70	114	130	170
35	74	83	91	132	70	74	106	96	67	74	83	114	96	155	176	225
40	96	108	119	173	91	96	138	124	87	96	108	149	124	202	229	288
45	121	137	150	218	115	121	175	158	110	121	137	189	158	257	291	358
50	150	169	185	264	142	150	216	195	135	150	169	233	195	317	359	435
55	181	204	224	326	172	181	261	236	163	181	204	281	236	383	433	530
60	[1] 216	[1] 242	[1] 267	[1,2] 388	[1] 204	[1] 216	[1] 310	280	[1] 194	[1] 216	[1] 242	[1] 335	280	[1] 456	[1] 517	[1] 613
80	[1] 405	[1] 459	[1] 510	NA	[1] 383	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
95	[1] 607	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
100	[1] 673	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

[1] Distance for specified tests. [2] Applicable to school buses only. NA=Not applicable.

NOTE: (a) Passenger cars; (b) vehicles other than passenger cars with GVWR of less than 8,000 lbs; (c) vehicles with GVWR of not less than 8,000 lbs and not more than 10,000 lbs; (d) vehicles with GVWR greater than 10,000 lbs; (e) buses, including school buses, with GVWR greater than 10,000 lbs.

* * * * *

S5.1.1 *Stopping distance.*

(a) The service brakes shall be capable of stopping each vehicle with a GVWR of less than 8,000 pounds, and each school bus with a GVWR between 8,000 pounds and 10,000 pounds in four effectiveness tests within the distances and from the speeds specified in S5.1.1.1, S5.1.1.2, S5.1.1.3, and S5.1.1.4.

(b) The service brakes shall be capable of stopping each vehicle with a GVWR of between 8,000 pounds and 10,000 pounds, other than a school bus, in three effectiveness tests within the distances and from the speeds specified in S5.1.1.1, S5.1.1.2, and S5.1.1.4.

(c) The service brakes shall be capable of stopping each vehicle with a GVWR greater than 10,000 pounds in two effectiveness tests within the distances and from the speeds specified in S5.1.1.2 and S5.1.1.3.

* * * * *

S5.1.1.2 In the second effectiveness test, each vehicle with a GVWR of 10,000 pounds or less and each school bus with a GVWR greater than 10,000 pounds shall be capable of stopping from 30 mph and 60 mph, and each vehicle with a GVWR greater than 10,000 pounds (other than a school bus) shall be capable of stopping from 60 mph, within the corresponding distances specified in Column II of Table II. If the speed attainable in 2 miles is not less than 84 mph, a passenger car or other vehicle with a GVWR of 10,000 pounds or less shall also be capable of stopping from 80 mph within the corresponding distances specified in Column II of Table II.

* * * * *

S6 *Test conditions.* The performance requirements of S5 shall be met under the following conditions. Where a range of conditions is specified, the vehicle shall be capable of meeting the requirements at all points within the range. Compliance of vehicles manufactured in two or more stages may, at the option of the final-stage manufacturer, be demonstrated to comply with this standard by adherence to the instructions of the incomplete manufacturer provided with the vehicle in accordance with § 568.4(a)(7)(ii) and § 568.5 of title 49 of the Code of Federal Regulations.

* * * * *

S6.9 *Road Surface.*

S6.9.1 For vehicles with a GVWR of 10,000 pounds or less, road tests are conducted on a 12-foot-wide, level roadway, having a skid number of 81. Burnish stops are conducted on any surface. The parking brake test surface is clean, dry, smooth, Portland cement concrete.

S6.9.2 For vehicles with a GVWR greater than 10,000 pounds, road tests are conducted on a 12-foot-wide, level roadway, having a peak friction coefficient of 0.9 when measured using an American Society for Testing and Materials (ASTM) E 1136 standard reference test tire, in accordance with ASTM Method E 1337–90, at a speed of 40 mph, without water delivery. Burnish stops are conducted on any surface. The parking brake test surface is clean, dry, smooth, Portland cement concrete.

* * * * *

S6.10 *Vehicle Position and Wheel Lockup Restrictions.* The vehicle is aligned in the center of the roadway at the start of each brake application. Stops, other than spike stops, are made without any part of the vehicle leaving the roadway.

S6.10.1 For vehicles with a GVWR of 10,000 pounds or less, stops are made with wheel lockup permitted only as follows:

(a) At vehicle speeds above 10 mph, there may be controlled wheel lockup on an antilock-equipped axle, and lockup of not more than one wheel per vehicle, uncontrolled by an antilock system. (Dual wheels on one side of an axle are considered a single wheel.)

(b) At vehicle speeds of 10 mph or less, any wheel may lock up for any duration.

(c) Unlimited wheel lockup is allowed during spike stops (but not spike check stops), partial failure stops, and inoperative brake power or power assist unit stops.

S6.10.2 For vehicles with a GVWR greater than 10,000 pounds, stops are made with wheel lockup permitted only as follows:

(a) At vehicle speeds above 20 mph, any wheel on a nonsteerable axle other than the two rearmost nonliftable, nonsteerable axles may lock up for any duration. The wheels on the two rearmost nonliftable, nonsteerable axles may lock up according to (b).

(b) At vehicle speeds above 20 mph, one wheel on any axle or two wheels on any tandem may lock up for any duration.

(c) At vehicle speeds above 20 mph, any wheel not permitted to lock in (a) or (b) may lock up repeatedly, with each lockup occurring for a duration of one second or less.

(d) At vehicle speeds of 20 mph or less, any wheel may lock up for any duration.

(e) Unlimited wheel lockup is allowed during partial failure stops, and inoperative brake power or power assist stops.

Issued on March 1, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–5412 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR PART 393

[FHWA Docket No. MC–94–31]

RIN 2125–AD46

Parts and Accessories Necessary for Safe Operation; Antilock Brake Systems

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent; request for comments.

SUMMARY: This document requests comments on the intent of the FHWA to initiate a rulemaking concerning requirements for antilock brake systems (ABS) on commercial motor vehicles engaged in interstate commerce. The National Highway Traffic Safety Administration (NHTSA) has issued a final rule, published elsewhere in today's **Federal Register**, requiring certain newly manufactured vehicles to be equipped with ABS. The FHWA intends to initiate a rulemaking addressing requirements for motor carriers to maintain the ABS on those vehicles which are subject to the NHTSA's final rule and address certain other ABS issues related to vehicles subject to the Federal Motor Carrier Safety Regulations (FMCSRs). The FHWA requests comments on this action.

DATES: Comments must be received on or before May 9, 1995.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC–94–31, Room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Standards, HCS–10, (202) 366–2981; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D. C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 4012 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, 105 Stat. 1914, 2157) directs the Secretary of Transportation to initiate a rulemaking concerning methods for improving braking performance of new commercial motor vehicles,[1] including truck tractors, trailers, and their dollies. Congress specifically directed that such a rulemaking examine antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. The ISTEA requires that the rulemaking be consistent with the Motor Carrier Safety Act of 1984 (49 U.S.C. 31147(b)) and be carried out pursuant to, and in accordance with, the National Traffic and Motor Vehicle Safety Act of 1966 (49 U.S.C. 30111 *et seq.*).

The NHTSA Rulemaking

In response to the ISTEA, the NHTSA has issued a final rule (which is published elsewhere in today's **Federal Register**) amending Federal Motor Vehicle Safety Standard (FMVSS) No. 105, Hydraulic Brake Systems, and FMVSS No. 121, Air Brake Systems, to require medium and heavy vehicles to be equipped with an antilock brake system (ABS) to improve the lateral stability (i.e., traction) and steering control of these vehicles during braking. For truck tractors, the ABS requirement is supplemented by a 30-mph braking-in-a-curve test on a low coefficient of friction surface using a full brake application. By improving lateral stability and control, these requirements will significantly reduce jackknifing and other losses of control during braking as well as the deaths and injuries caused by those control problems.

In addition, the NHTSA final rule requires all powered heavy vehicles to be equipped with an in-cab lamp to indicate ABS malfunctions. Truck tractors and other trucks equipped to tow air-braked trailers are required to be equipped with two separate in-cab lamps: one indicating malfunctions in the towing vehicle ABS and the other in the trailer ABS. Trailers produced during an initial eight-year period must also be equipped with an external malfunction indicator that will be visible to the driver of the towing tractor. These indicators will provide valuable information about ABS malfunctioning to the driver in the event that the trailer is towed by a vehicle that is not equipped with an in-cab ABS malfunction indicator for trailers.

The amendments to FMVSS No. 105 become effective on March 1, 1999. The amendments to FMVSS No. 121 become effective on March 1, 1997, with respect to truck tractors, and on March 1, 1998, with respect to air-braked trailers, converter dollies, single unit trucks and buses.

In the 1970's, FMVSS No. 121 included stopping distance requirements which essentially required heavy vehicles to be equipped with antilock brake systems. In response to a legal challenge, the United States Court of Appeals for the 9th Circuit invalidated the stopping distance and ''no lockup'' requirements in Standard No. 121, along with certain other provisions, holding that the standard was ''neither reasonable nor practicable at the time it was put into effect.'' *PACCAR* v. *NHTSA*, 573 F.2d 632 (9th Cir. 1978), cert. denied, 439 U.S. 862 (1978).

As explained in NHTSA's final rule, the preconditions for an ABS requirement for heavy vehicles differ markedly from 20 years ago when the petitioners challenged the agency in PACCAR. First, NHTSA's extensive fleet study of heavy vehicle antilock systems demonstrates that these systems are reliable. Second, the agency's testing of truck tractors equipped with antilock systems indicates that they provide significantly improved lateral control and stability compared to vehicles without antilock systems. Third, unlike air brake systems in existence in the mid-1970's that relied on significantly larger, more aggressive foundation brakes, which could possibly create safety problems if the antilock system malfunctioned, the requirements being adopted today do not necessitate such aggressive brakes. Fourth, antilock brake systems are now in widespread, everyday use in this country and throughout the world. Fifth, the performance requirements adopted in today's final rule are objective and practicable. Based on these and other considerations discussed throughout its final rule, NHTSA believes the final rule satisfies the concerns raised in the PACCAR case.

To evaluate the reliability of current-generation ABS designs, the NHTSA conducted extensive field studies of ABS-equipped heavy truck tractors and

[1] For the purposes of section 4012, the term ''commercial motor vehicle'' means any self-propelled or towed vehicle used on highways to transport passengers or property if such vehicle has a gross vehicle weight rating (GVWR) of 11,794 kilograms (kg) (26,001 pounds) or more. The NHTSA's final rule on ABS applies to medium and heavy vehicles with a GVWR of 4,536 kg (10,001 pounds) or more.

semitrailers [2] in developing its final rule. In response to the PACCAR case, these studies were structured to assess whether current-generation heavy vehicle antilock brake systems were reliable and fail-safe, whether they inordinately increased vehicle maintenance costs, and whether they could be successfully maintained and would remain functioning in typical U.S. heavy truck operating environments.

The NHTSA Research

Between 1988 and 1993, the agency tracked the maintenance performance histories of 200 truck tractors and 50 semitrailers equipped with ABS, as well as the histories of a comparison group of 88 truck tractors and 35 semitrailers not equipped with ABS, to determine the incremental maintenance costs and patterns associated with installing ABS on these heavy vehicles. Additionally, special on-board vehicle recorders were used to monitor the functioning and performance of the ABSs. Finally, drivers and mechanics at the participating test fleets were periodically interviewed to ascertain their views about the ABS test vehicles' performance and ease of maintenance. The study authors concluded that, based on the data collected during the fleet study, currently available antilock brake systems are reliable, durable and maintainable. While ABS is not a zero-cost maintenance item, its presence on a vehicle did not substantially increase maintenance costs (less than one percent for tractors, less than two percent for trailers) or decrease vehicle operational availability. Moreover, the NHTSA study found that system malfunctions would not render the vehicle's braking system unsafe, since the brake system would merely revert to one without an ABS; foundation brakes are unchanged when ABS is added. The incidents noted during the test program in which an ABS malfunction did compromise the vehicle's underlying brake system performance involved defective components.

The NHTSA's research report indicates that in both the tractor and the trailer studies, many of the test vehicles either arrived in the test fleets with faulty ABS or had ABS malfunction indications shortly thereafter. These problems were the result of what was referred to as installation or pre-production design-related problems. In general, these problems were easily remedied, with most of the ABSs requiring only adjustments or minor repairs. Problems of this nature were at least partially attributable to the prototype nature of many of the installations accomplished for this test program.

The NHTSA emphasizes that the problems encountered in the test program do not reflect inherent design flaws with the principal components (i.e., the electronic control units (ECU), modulators, and wheel-speed sensing hardware) of ABS. Instead, they highlight the importance of using high quality wiring components and paying close attention to installation details. The NHTSA anticipates that the frequency of these problems will be lower than that experienced during the agency's test program once ABS production/installation increases to a level high enough to enable the quality control programs typically utilized by suppliers and truck manufacturers to take effect.

An average of 1.35 labor hours and $106.46 for replacement components per test truck tractor were necessary to rectify these installation/pre-production design-related problems. Comparable figures for semitrailers were 1.9 labor hours and $65.36 for parts. All these costs are usually recovered by fleets under the terms of typical warranties offered by ABS suppliers and/or truck manufacturers. The NHTSA notes that the start-up or installation/pre-production design-related problems that the test fleets experienced are similar to the experiences that fleets were reported to have had with electronically controlled engines when they were first introduced on heavy trucks in the mid-1980's.

During the two-year period in which the reliability of these systems was evaluated, 200 ABS-equipped test tractors accumulated 39,818,659 miles of travel. During that period, 126 trucks (63 percent) needed ABS related maintenance that could best be attributed to normal service wear factors rather than installation or pre-production design-related problems. A total of 421 incidents of this type occurred with the 126 trucks, the majority (321 or 76 percent) of which involved inspections/adjustments. The remainder (100 or 24 percent) involved repairs/replacements. All brands of the ABSs involved in the test program experienced incidents of this type at one time or another during their in-service operation.

Forty vehicles experienced more than one failure warning, the reason for which could not be discovered. Two vehicles experienced 35 and 31 such indications (23 percent of the total ECU resets (clearing the failure message from the ECU memory)) respectively. Two other trucks experienced 12 and 10 separate indications, respectively. These four vehicles (4.5 percent of the trucks with failure warning problems) accounted for 30 percent of the total intermittent failure warning indications and ECU resets.

All five ABS systems (Bendix, Bosch, Midland, Rockwell, and WABCO) experienced intermittent failure indications with at least one of the forty test trucks each had involved in the test program. In each case, the ABS was either manually reset or the warning light did not reactivate when the truck's ignition was turned off and subsequently turned on again at some later time. However, 61 percent of the total failure warning indications of this type, and 34 percent of the vehicles experiencing intermittent failure indications, were attributable to one supplier's ABS. Another supplier's system accounted for 18 percent of total failure warning indications and 28 percent of the total vehicles involved. Since the time of the agency's test, both suppliers' systems have been modified to reduce the number of these false-positive malfunction indications.

The NHTSA's final rule summarizes the maintenance related to in-service wear that was required during the tractor portion of the program on each of the ABS components. Inspections and ECU resets associated with intermittent failure warning indications were the principal occurrences. In general, most of the work did not involve parts replacements. Parts-replacement incidents totaled 40, with 55 percent of these (22) involving failure warning lamp bulbs or fuses. The average number of in-service wear-related maintenance incidents, including all inspections, adjustments, repairs, and replacements, was 2.11 incidents per truck over the two-year period of the test.

Replacing faulty major ABS components, plus performing all other inspections, adjustments and repairs that were in-service wear-related, required approximately 403 hours of labor and $4,068 for parts replacements for all tractors in the test. At a standard hourly rate of $35, this amounts to $18,173, or 0.046 cents per mile (based on 39,818,659 total miles of travel) for the cost of maintaining the ABSs over the two-year period. The inspections/ECU resets, which only involved labor

[2] ''An In-Service Evaluation of the Reliability, Maintainability, and Durability of Antilock Braking Systems (ABS) for Heavy Truck Tractors,'' DOT Report No. 807 846, March 1992, and ''An In-Service Evaluation of the Reliability, Maintainability, and Durability of Antilock Braking Systems (ABS) for Semitrailers,'' DOT Report No. 808 059, October 1993.

expenditure, accounted for 45 percent of these total costs. Although they occurred infrequently, ECU replacements were costly, accounting for 21 percent of the in-service wear-related maintenance costs.

Similar findings were noted for the 50 ABS-equipped semitrailers that were evaluated. The test vehicles accumulated 4,001,369 miles of in-service use during almost two years of operation. In that period, 23 semitrailers (46 percent) needed ABS-related maintenance that could best be attributed to normal service factors, rather than installation or pre-production design-related problems. This compares favorably to the 63 percent of tractors requiring ABS service during the tractor program. A total of 44 incidents of this type occurred with the semitrailers, with the majority (29, or 66 percent) involving inspections or adjustments. The remainder (15, or 34 percent) involved repairs or replacements. These percentages are similar to the 76 percent for adjustments and inspections and 24 percent for repairs and replacements seen during the tractor program.

In summarizing the in-service maintenance that was required for ABS components during the trailer portion of the test program, the NHTSA notes that inspections and ECU resets associated with intermittent failure warning indications were the principal occurrences. Parts-replacement incidents totaled six, with three of these being status light bulbs and three speed sensors. In general, most of the work did not involve parts replacement.

The average number of in-service maintenance incidents, including all inspections, adjustments, repairs, and replacements, was 0.88 incidents per semitrailer over the two-year test period. This compares well with the 2.11 incidents per tractor seen during the tractor portion of this program.

Replacing faulty ABS components, plus performing all other inspections, adjustments, and repairs that were in-service related, required approximately 44 hours of labor and $234 for parts replacements. At a standardized hourly rate of $35, the total cost of maintaining the ABSs over the two-year period ($1,774) amounts to 0.044 cents per mile (based on 4,001,369 total miles of travel). The inspections and ECU resets (which only involved labor expenditure) accounted for 35 percent of the total costs. The comparable tractor figures are 0.046 cents per mile for total costs and 45 percent of the total costs for inspection and ECU reset, indicating that the semitrailers performed very much like the tractors.

Maintenance of ABS

At the completion of the overall 5-year test program, the NHTSA conducted a final follow-up survey among the participating fleets. Among the 13 fleets that were continuing to maintain the ABS on the original test tractors, 97 percent of those tractors had functioning ABS. On the other hand, the ABSs were not functioning on two-thirds of the original test tractors in the other three fleets surveyed that chose not to continue maintaining the systems. This demonstrates that fleets must be committed to maintaining the ABS if it is to be kept operational.

Antilock brake systems require some periodic, and occasionally non-periodic, non-scheduled maintenance in order to remain functional. Nonetheless, the NHTSA believes that the data contained in the two fleet study reports indicate that equipping vehicles with ABS is appropriate. Taken in total, those data indicate that, while ABS is not a zero-maintenance component, it is neither difficult nor unduly expensive to maintain. The fleet test results do not indicate that the level of maintenance attention needed to keep ABS functional is unreasonable relative to the safety benefits that will result from use of these systems.

FHWA Intention

The FHWA has concluded that a rulemaking should be initiated proposing to amend the FMCSRs to include ABS requirements for certain commercial motor vehicles subject to those regulations. At a minimum, the rulemaking would propose that motor carriers be required to maintain the ABS units on all vehicles subject to the NHTSA rule.

The agency is not offering for comment at this time any proposed language for amendments to the FMCSRs. The FHWA does, however, solicit comments on its decision to initiate a rulemaking on ABS. Following a careful review of the docket comments sent in response to this notice, the FHWA will publish a notice of proposed rulemaking containing specific regulatory language. The FHWA anticipates that this rulemaking will be concluded prior to the effective date of the NHTSA's ABS requirement.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. Due to the preliminary nature of this document and lack of necessary information on costs, however, the FHWA is unable to evaluate fully the economic impact of the potential regulatory changes being considered in this rulemaking. Based on the information received in response to this notice, the FHWA intends to carefully consider the costs and benefits associated with various alternative requirements. Comments, information, and data are solicited on the economic impact of the potential changes.

Regulatory Flexibility Act

Due to the preliminary nature of this document and lack of necessary information on costs, the FHWA is unable to evaluate fully the effects of the potential regulatory changes on small entities. Based on the information received in response to this notice, the FHWA intends, in compliance with the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601–612), to carefully consider the economic impacts of these potential changes on small entities. The FHWA solicits comments, information, and data on these impacts.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental

consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety.

Authority: 49 U.S.C. 31136, 31502; 49 CFR 1.48

Issued on: March 1, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95–5414 Filed 3–7–95; 8:45 am]

BILLING CODE 4910–22–P

Friday
March 10, 1995

Part III

Department of Labor

Employment and Training Administration

Department of Education

Office of Vocational and Adult Education

School-to-Work Opportunities Act, State Implementation Grants; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

School-to-Work Opportunities Act; State Implementation Grants

AGENCIES: Department of Labor and Department of Education.

ACTION: Notice of proposed selection criteria and a proposed definition of administrative costs for School-to-Work Opportunities State Implementation Grants to be made in fiscal year 1995 and succeeding years.

SUMMARY: The Departments of Labor and Education jointly propose selection criteria to be used in evaluating applications submitted under the School-to-Work Opportunities State Implementation Grant (State Implementation Grants) competition in fiscal year (FY) 1995 and succeeding years, authorized under section 212 of the School-to-Work Opportunities Act of 1994 (the Act). State Implementation Grants will enable States to implement their plans for offering young Americans access to programs designed to prepare them for a first job in high-skill, high-wage careers and for further education and training. The Departments also propose a definition for administrative costs that would apply to State Implementation Grants funded under the Act.

DATES: Comments must be received on or before April 10, 1995.

ADDRESSES: Comments should be addressed to Janet Moore, National School-to-Work Office, 400 Virginia Avenue, S.W., Suite 210, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Janet Moore, National School-to-Work Office (202) 401–3822 (this is not a toll-free number). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The Departments of Labor and Education intend to reserve funds appropriated for FY 1995 under the School-to-Work Opportunities Act of 1994 (the Act) (Pub. L. 103–239) for a competition for State Implementation Grants authorized under section 212 of the Act. The Departments propose a definition of administrative costs and selection criteria that will be used in evaluating applications submitted in response to the FY 1995 State Implementation Grant competition. States are advised that applications for State Implementation Grants must meet all of the requirements in the Act. In addition to applying the proposed selection criteria during the review of applications, the Departments will evaluate applications utilizing the considerations and approval criteria in section 214 of the Act. The Departments intend to apply the Department of Labor regulations pertaining to enforcement and administrative requirements for grants in 29 CFR parts 33, 93, 95, 96, 97, 98 to this State Implementation Grant competition.

Proposed Definition and Selection Criteria

The Departments propose to apply the definition of administrative costs and the selection criteria in this notice to the FY 1995 competition for State Implementation Grants. Unless modified, the definition and selection criteria will be used for future State Implementation Grants in succeeding fiscal years. The Departments solicit comments on the proposed definition and selection criteria, and will announce the final definition and selection criteria in a notice in the **Federal Register** after taking into account the responses to this notice and other considerations of the Departments.

Note: This notice of proposed selection criteria does not solicit applications. A notice inviting applications for School-to-Work Opportunities State Implementation Grants will be published in the **Federal Register** concurrent with or immediately following publication of the notice of final selection criteria.

Definition

All definitions in the Act apply to School-to-Work Opportunities systems funded under this and future State Implementation Grant competitions. The Act does not contain a definition of ''administrative costs'' as used in section 217 of the Act. The Departments propose that the following definition be applied to this and future competitions for State Implementation Grants:

The term ''administrative costs'' means the activities of a State or local partnership that are necessary for the proper and efficient performance of its duties under the School-to-Work Opportunities Act and that are not directly related to the provision of services to participants or otherwise allocable to the program's allowable activities listed in section 214(b) (4) and (5) and section 215(c) of the Act. Administrative costs may be both personnel and non-personnel, and direct and indirect. Costs of administration shall include, but not be limited, to:

A. Costs of salaries, wages, and related costs of the grantee's staff engaged in:

- Overall system management, system coordination, and general administrative functions;
- Preparing program plans, budgets, and schedules, as well as applicable amendments to them;
- Monitoring of local initiatives, pilot projects, subrecipients, and related systems and processes;
- Procurement activities, including the award of specific subgrants, contracts, and purchase orders;
- Providing State or local officials and the general public with information about the initiative (public relations);
- Developing systems and procedures, including management information systems, for assuring compliance with the requirements under the Act;
- Preparing reports and other documents related to the Act;
- Coordinating the resolution of audit findings;
- Evaluating system results against stated objectives;
- Performing administrative services;

B. Costs for goods and services required for administration of the system;

C. Costs of system-wide management functions; and

D. Travel costs incurred for official business in carrying out grant management or administrative activities.

Selection Criteria

Selection Criterion 1: Comprehensive Statewide System

Points: 35.

Considerations: In applying this criterion, reviewers will consider:

A. *20 points.* The extent to which the State has designed a comprehensive statewide School-to-Work Opportunities plan that——

- Includes effective strategies for integrating school-based and work-based learning, integrating academic and vocational education, and establishing linkages between secondary and postsecondary education;
- Is likely to produce systemic change in the way youth are educated and prepared for work and for further education, across all geographic areas of the State, including urban and rural

areas, within a reasonable period of time.

- Includes strategic plans for effectively aligning other statewide priorities, such as education reform, economic development, and workforce development into a comprehensive system that includes the School-to-Work Opportunities system and supports its implementation at all levels—State, regional and local;
- Ensures all students will have a range of options, including options for higher education, additional training and employment in high-skill, high-wage jobs; and
- Ensures coordination and integration with existing local education and training programs and resources, including those School-to-Work Opportunities systems established through local partnership grants and Urban/Rural Opportunities grants funded under Title III of the School-to-Work Opportunities Act, and related Federal, State, and local programs.

B. *15 points.* The extent to which the State plan demonstrates the State's capability to achieve the statutory requirements and to effectively put in place the system components in Title I of the School-to-Work Opportunities Act, including——

- The work-based learning component that includes the statutory mandatory activities and that contributes to the transformation of workplaces into active learning components of the education system through an array of learning experiences, such as mentoring, job-shadowing, unpaid work experiences, school-based enterprises, and paid work experiences;
- The school-based learning component that will provide students with high level academic skills consistent with academic standards that the State establishes for all students, including, where applicable, standards established under the Goals 2000: Educate America Act;
- A connecting activities component to provide a functional link between students' school and work activities and employers and educators; and
- A plan for an effective process for assessing students' skills and issuing portable skill certificates that are benchmarked to high quality standards such as those the State establishes under the Goals 2000: Educate America Act, and for periodically assessing and collecting information on student outcomes, as well as a realistic strategy and timetable for implementing the process.

Selection Criterion 2: Commitment of Employers and Other Interested Parties

Points: 15.

Considerations: In applying this criterion, reviewers will consider:

- The extent to which the State has obtained the active involvement of employers and other interested parties critical to the success of the School-to-Work Opportunities system, such as the parties listed in section 213(d)(5) of the Act, as well as State legislators.
- Whether the State plan demonstrates an effective and convincing strategy for continuing the commitment of employers and other interested parties in the statewide system, such as the parties listed in section 213(d)(5) of the Act, as well as State legislators.
- The extent to which the State plan proposes to include private sector representatives as joint partners with educators in the oversight and governance of the overall School-to-Work Opportunities system.
- The extent to which the State has developed strategies to provide a range of opportunities for employers to participate in the design and implementation of the School-to-Work Opportunities system, including membership on councils and partnerships; assistance in setting standards, designing curricula and determining outcomes; providing worksite experience for teachers; helping to recruit other employers; and providing worksite learning activities for students, such as mentoring, job shadowing, unpaid work experiences, and paid work experiences.

Criterion 3: Participation of All Students

Points: 15.

Considerations: In applying this criterion, reviewers will consider:

- The extent to which the State will implement effective strategies and systems to ensure that all students have meaningful opportunities to participate in School-to-Work Opportunities programs.
- Whether the plan identifies potential barriers to the participation of any students, and the degree to which the plan proposes effective ways of overcoming these barriers.
- The degree to which the State has developed realistic goals and methods for assisting young women to participate in School-to-Work Opportunities programs leading to employment in high-performance, high-paying jobs, including nontraditional jobs.
- The feasibility and effectiveness of the State's strategy for serving students from rural communities with low population densities.
- The State's methods for ensuring safe and healthy work environments for students.

Note: Experience with the FY 1994 School-to-Work Opportunities State Implementation grant applications has shown that many applicants do not give adequate attention to designing programs that will serve school dropouts and programs that will serve students with disabilities. Therefore, the Departments would like to remind applicants that reviewers will consider whether an application includes strategies to specifically identify the barriers to participation of dropouts and students with disabilities and proposes specific methods for effectively overcoming such barriers and for integrating academic and vocational learning, integrating work-based learning and school-based learning, and linking secondary and postsecondary education for dropouts and students with disabilities. Applicants are reminded that JTPA Title II funds may be used to design and provide services to students who meet the appropriate JTPA eligibility criteria.

Selection Criteria 4: Stimulating and Supporting Local School-to-Work Opportunities Systems

Points: 15.

Considerations: In applying this criterion, reviewers will consider:

- The extent to which the State assists local entities to form and sustain effective local partnerships serving communities in all parts of the State.
- Whether the plan includes an effective strategy for addressing the specific labor market needs of localities that will be implementing School-to-Work systems.
- The effectiveness of the State's strategy for building the capacity of local partnerships to design and implement local School-to-Work Opportunities systems that meet the requirements of the School-to-Work Opportunities Act.
- The extent to which the State will provide a variety of assistance to local partnerships, as well as the effectiveness of the strategies proposed for providing this assistance, including such services as: developing model curricula and innovative instructional methodologies, expanding and improving career and academic counseling services, and assistance in the use of technology-based instructional techniques.
- The ability of the State to provide constructive assistance to local partnerships in identifying critical and emerging industries and occupational clusters.

Selection Criterion 5: Resources

Points: 10.

Considerations: In applying this criterion, reviewers will consider:

- The amount and variety of other Federal, State, and local resources the State will commit to implementing its School-to-Work Opportunities plan, as well as the specific use of these funds, including funds for JTPA Summer and Year-Round Youth programs and Perkins Act programs.
- The feasibility and effectiveness of the State's long-term strategy for using other resources, including private sector resources, to maintain the statewide system when Federal resources under the School-to-Work Opportunities Act are no longer available.
- The extent to which the State is able to limit administrative costs in order to maximize the funds spent on the delivery of services to students, as required in section 214(b)(3) of the Act, while ensuring the efficient administration of the School-to-Work Opportunities system.

Criterion 6: Management Plan

Points: 10.

Considerations: In applying this criterion, reviewers will consider:

- The adequacy of the management structure that the State purposes for the School-to-Work Opportunities system.
- The extent to which the State's management plan anticipates barriers to implementation and proposes effective methods for addressing barriers as they arise.
- Whether the plan includes feasible measurable goals for the School-to-Work-Opportunities system, based on performance outcomes established under section 402 of the Act, and an effective method for collecting information relevant to the State's progress in meeting its goals.
- Whether the plan includes a regulatory scheduled process for improving or redesigning the School-to-Work Opportunities implementation system based on performance outcomes as established under section 402 of the Act.
- Whether the plan includes a feasible workplan for the School-to-Work Opportunities system that includes major planned objectives over a five-year period.

Additional Priority Points

As required by section 214 of the Act, the Departments will give priority to applications that show the highest level of concurrence among State partners with the State plan, and to applications that require paid, high quality work-based learning experiences as an integral part of the School-to-Work Opportunities system by assigning additional points—above the 100 points described in the criteria—as follows:

1. Highest Levels of Concurrence—5 Points

Up to 5 points will be awarded to applications that can—

- Fully demonstrate that each of the State partners listed in section 213(b)(4) concurs with the State School-to-work Opportunities plan, and that the State partners' concurrence is backed by a commitment of time and resources to implement the plan.

2. Paid, High-Quality Work-Based Learning—10 Points

Up to 10 points will be awarded to applications that demonstrate that the State—

- Has developed effective plans for requiring, to the maximum extent feasible, paid, high-quality work experience as an integral part of the State's School-to-Work Opportunities system, and for offering the paid, high-quality work experiences to the largest number of participating students as is feasible; and
- Has established methods for ensuring consistently high quality work-based learning experiences across the State.

Invitation to Comment: Interested persons are invited to submit comments on the proposed selection criteria and the proposed definition of administrative costs contained in this notice. Interested persons are also invited to comment on the Departments' proposal that States be required to submit their applications for new State Implementation Grant awards within 30 days of the publication of a notice of final selection criteria. The Departments recognize that for the FY 1994 State Implementation Grant competition they provided applicants with 60 days in which to submit their applications following the publication of the notice of final selection criteria and priorities.

However, the selection criteria proposed for the FY 1995 State Implementation Grant competition are very similar to those that applied to the FY 1994 competition and the States have been actively engaged in the planning of their School-to-work Opportunities systems with State Development Grant funds since initial development grants were awarded in early 1994. Accordingly, and in the interest of designing an application submission and review process that enables the Departments to make FY 1995 awards in as timely a fashion as possible, the Departments propose to provide States with 30 days in which to submit their applications for new FY 1995 State Implementation Grants.

Finally, under section 213(a)(2) of the Act, where a Governor has been unable, in accordance with section 213(d)(4) of the Act, to obtain support for the State plan from all of the individuals and entities listed in 213(b)(4) (A) through (J), the Governor must provide those non-concurring individuals and entities with a copy of the State's final application and provide those individuals and entities with 30 days in which to submit their comments on that application. Under section 213(a)(2)(C) of the Act, the governor must include any such comments in the State's application. In order to adhere to these statutory requirements while providing the same application submission deadlines and ensuring timely application reviews for all States, the Departments propose that a State submit its final application simultaneously to the Departments and to any of the individuals and entities listed in section 213(b)(4) (A) through (J) who must be given an opportunity to comment under section 213(a)(2). Any comments received as a result of this opportunity will be provided to the Departments immediately upon receipt of those comments by the State, but no later than 30 days after the request for comments is made by the Governor under section 213(a)(2)(B). Once all such comments have been received, applications will be considered to be complete.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in the National School-to-Work Office, 400 Virginia Avenue SW., Suit 210, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week, except Federal holidays.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 29 CFR Part 17. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Departments' specific plans and actions for this program.

Applicable Regulations: 29 CFR parts 33, 93, 95, 96, 97, 98.

Dated: March 7, 1995.

Doug Ross,

Assistant Secretary for Employment and Training, Department of Labor.

Augusta Kappner,

Assistant Secretary for Vocational and Adult Education, Department of Education.

[FR Doc. 95–5922 Filed 3–9–95; 8:45 am]

BILLING CODE 4510–30–M

Friday
March 10, 1995

Part IV

Department of Transportation

Coast Guard

33 CFR Parts 155 and 157
46 CFR Parts 30, 32, 70, 90, and 172
Double Hull Standards for Vessels Carrying Oil in Bulk; Final Rule

Coast Guard

33 CFR Parts 155 and 157; 46 CFR Parts 30, 32, 70, 90, and 172

[CGD 90–051]

RIN 2115–AD61

Double Hull Standards for Vessels Carrying Oil in Bulk

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In an interim final rule (IFR) published on August 12, 1992, the Coast Guard established regulations for the design standards of double hull vessels pursuant to the requirements of section 4115 of the Oil Pollution Act of 1990 (OPA 90 or the Act) (Pub. L. 101–380). This rule adopts the IFR as final with minor changes to definitions.

EFFECTIVE DATE: This rule is effective on April 10, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the Office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Gauvin, Project Manager, Office of Marine Safety, Security and Environmental Protection (G–MVI), telephone (202) 267–1181.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. Robert M. Gauvin, Project Manager, Office of Marine Safety, Security and Environmental Protection, and Mr. Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Regulatory History

On December 5, 1990, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Double Hull Standards for Tank Vessels Carrying Oil'' in the **Federal Register** (55 FR 50192). On September 6, 1991, the Coast Guard published a notice in the **Federal Register** (56 FR 44051) reopening the comment period until October 7, 1991.

On August 29, 1991, the Coast Guard published a notice in the **Federal Register** (56 FR 42763) announcing a public meeting to obtain the views of interested parties regarding the scope of the environmental assessment. The Coast Guard subsequently held the scoping meeting on September 26, 1991.

On January 15, 1992, the Coast Guard published a notice in the **Federal Register** (57 FR 1854) announcing the availability of the Interim Regulatory Impact Analysis (IRIA) and Environmental Assessment (EA). In response to the IRIA and EA, the Coast Guard received a total of 112 letters commenting on this rulemaking.

On August 12, 1992, the Coast Guard published an IFR entitled ''Double Hull Standards for Vessels Carrying Oil in Bulk'' in the **Federal Register** (57 FR 36222), which requested comments be received on or before October 13, 1992. On December 18, 1992, the Coast Guard opened a second comment period for the IFR by publishing a notice in the **Federal Register** (57 FR 60402). The Coast Guard received 61 letters during the IFR comment periods and the Coast Guard considered all comments received to the rulemaking up to the close of the second comment period on February 26, 1993. All comments considered by the Coast Guard on or relating to this rulemaking are in the docket. A public hearing was not requested and none was held.

Background and Purpose

Section 4115 of OPA added section 3703a to Title 46 U.S. Code. Section 3703a(a) requires a double hull to be fitted on a vessel if it is constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue. A vessel that is constructed or undergoes a major conversion under a contract placed on June 30, 1990, or later must have a double hull fitted at the time of construction or major conversion (with certain exceptions in the Act). An existing vessel that is constructed or that undergoes a major conversion under an earlier contract must be fitted with a double hull in accordance with a timetable in 46 U.S.C. 3703a(c)(3), which commences January 1, 1995.

Section 3703a does not provide technical standards for a double hull. This final rule provides marine transportation and shipbuilding industries with the technical standards necessary to meet the double hull requirements.

On September 21, 1990, the Coast Guard issued Navigation and Vessel Inspection Circular (NVIC) No. 2–90. This NVIC provides policy guidance on double hull construction for a vessel undergoing construction or major conversion under a contract awarded on or after June 30, 1990, but prior to the effective date of the IFR which was September 11, 1992. A vessel which is built to plans that have been approved in accordance with NVIC 2–90 under a contract awarded before the effective date of the IFR will satisfy the double hull requirements in this final rule. NVIC 2–90 may not be used for a vessel which undergoes construction or major conversion under a contract awarded on or after September 11, 1992. Change 1 of NVIC 2–90, published by the Coast Guard on November 24, 1992, clarifies the effective dates of NVIC 2–90 as between June 30, 1990, and September 11, 1992.

A substantial amount of oil imported into the United States is transported aboard foreign flag vessels. Since the Act applies to all vessels in U.S. waters, including foreign vessels, the Coast Guard recognized that U.S. double hull regulations would have a significant global impact. Therefore, the Coast Guard has also worked at the international level to establish double hull standards. The International Maritime Organization (IMO) is a specialized United Nation agency which oversees international maritime affairs. IMO has been responsible for developing various international conventions, such as the International Convention for the Safety of Life at Sea, 1974, (SOLAS 74), and the International Convention for the Prevention of Pollution by Ships, 1973, as amended by the Protocol of 1978 (MARPOL 73/78). The Coast Guard represents the United States at IMO deliberations. In November 1990, the United States submitted a proposal to IMO's 30th session of the Marine Environment Protection Committee (MEPC) for international standards to require double hulls for tank vessels. This proposal resulted in a draft Regulation 13F of Annex I to MARPOL 73/78. At the 31st session of the MEPC in July 1991 (MEPC 31), the Committee approved draft Regulation 13F for circulation to IMO member states for their consideration.

In November 1991, a MEPC working group subsequently refined Regulation 13F, which was further refined and formally adopted at MEPC 32 on March 6, 1992. The United States reserved its position during the adoption of Regulation 13F, due to technical differences with OPA 90 regarding the applicability of double hull requirements to certain categories of vessels and the allowance of the mid-deck concept as an alternative to a double hull. The double hull dimensions prescribed in the IFR and this final rule are consistent with those in Regulation 13F as adopted at MEPC 32.

The MEPC also adopted Regulation 13G to Annex I of MARPOL at its 32nd session. Regulation 13G contains a schedule for retrofitting (with double hulls) or retiring existing single hull tank vessels at 25 or 30 years after delivery. Regulation 13G also requires vessels built prior to requirements for protectively located segregated ballast (pre-MARPOL tankers) to convert tanks protecting 30 percent of the sides or 30 percent of the bottom to non-oil carrying wing tanks or double bottom spaces no later than 25 years after delivery. The United States also reserved its position during the adoption of Regulation 13G of Annex I to MARPOL.

On December 23, 1992, the U.S. deposited a declaration with IMO regarding the U.S. acceptance and enforcement of Regulations 13F and 13G. This declaration stated that the express approval of the U.S. Government would be necessary before Regulations 13F and 13G would enter into force within the U.S. A **Federal Register** Notice (58 FR 39087) was published on July 21, 1993, discussing the U.S. position on Regulations 13F and 13G. The two major technical differences between the domestic and international standards were: (1) The acceptance by IMO of the mid-deck tanker design as an alternative to the double hull; and (2) variances in phase-out schedule for existing single hull tank vessels.

A copy of IMO paper MEPC 32/WP.3, which contains Regulations 13F and 13G, has been placed in the public docket. Regulations 13F and 13G, as adopted at MEPC 32, also appeared as an appendix to the preamble of the IFR for the convenience of the reader.

Discussion of Comments and Changes

The Coast Guard thanks the many interested parties who submitted a total of 61 documents to the public docket. These comments provided very useful information and afforded valuable assistance to the completion of this final rule.

This section discusses the comments received as well as the Coast Guard's responses and changes to the IFR. This section is divided into two subsections. The first subsection discusses comments regarding the specific CFR sections, and the second subsection discusses nonspecific comments concerning other issues relating to this rulemaking and double hull requirements in general.

Comments Relating to Specific CFR Sections

All comments and changes to each section of the rule are discussed within the following paragraphs, and the paragraphs are numbered in the order of their appearance in the CFR.

1. 33 CFR 157.03(n). Two comments were received regarding the determination of the definition of oil. One comment disagreed with the applicability of the definition to include vegetable oils and the other discussed the need to harmonize the definition with the MARPOL Convention.

The Coast Guard has researched the definition of oil and found its development based upon 46 U.S.C. 2101(20). To change this definition would require amendment of 46 U.S.C. 2101(20), which OPA 90 has not done. OPA 90 has reinforced the need for tougher, and more restricted controls over oil transportation. The Coast Guard has chosen to implement the double hull standards to the full extent of the definition of oil. Therefore, the definition of oil under this regulation will include animal and vegetable oils.

The Coast Guard recognizes that the definition of oil in 46 U.S.C. 2101(20) is inconsistent with the definition of oil under Annex I of MARPOL. Non-petroleum based oil, such as animal and vegetable oils are specifically designated as Category D noxious liquid substances (NLS) under Annex II of MARPOL. As OPA 90 does not allow for administrative interpretation of the definition of oil, existing regulations applicable to oceangoing vessels carrying NLS apply to a vessel carrying animal and vegetable oil in bulk, in addition to the new double hull requirements under this rule.

For the purpose of this rule the definition of oil shall not be limited to petroleum oils and shall include animal and vegetable based oils for the double hull requirements.

2. 33 CFR 157.03(v). Four comments addressed the applicability of this rule to vessels other than a tank barge or a tankship designed primarily to carry oil. One comment requested that offshore supply vessels (OSVs) be exempt from the requirements of the double hull standards under this rule. The three other comments strongly opposed the application of this rule to freight vessels involved in the Maritime Prepositioning Ship (MPS) Program, which under a National Defense Waiver (NDW) issued by the Secretary of the Navy, carry a secondary cargo of oil used to fuel the vessel's main cargo of military vehicles.

OPA 90 double hull requirements apply to a tank vessel as defined in 46 U.S.C. 2101(39). On November 4, 1992, Pub. L. 102–587 and on December 20, 1993, Pub. L. 103–206 were enacted, with sections which clarified the meaning of the tank vessel definition in 46 U.S.C. 2101(39).

Section 5209 of Pub. L. 102–587, entitled, ''Tank Vessel Definition Clarification,'' stated that the following vessels are deemed not to be a tank vessel for the purpose of any law: (1) An OSV; and (2) a fishing or fish tender vessels of not more than 750 gross tons that transfers fuel without charge to a fishing vessel owned by the same person.

Section 321 of Pub. L. 103–206, entitled, ''Fishing and Fishing Tender Vessels,'' stated that a fishing vessel or fish tender vessel of not more than 750 gross tons, when engaged only in the fishing industry, shall not be deemed to be a tank vessel for the purpose of any law.

Therefore, an OSV would not be required to meet this rule for the use of tanks onboard which carry oil (including drill mud that contains oil) as bulk cargo. Likewise fishing and fish tender vessels of not more than 750 gross tons, when engaged only in the fishing industry, are not required to meet the design standards of this rule.

Due to Section 5209 of Pub. L. 102–587 and Section 321 of Pub. L. 103–206, § 157.03(v) has been amended to show the clarification of a tank vessel definition under the meaning of tank vessel in 46 U.S.C. 2101(39).

On December 18, 1992, a **Federal Register** Notice (57 FR 60402), was published by the Coast Guard reopening the original IFR comment period until February 26, 1993. This was done to provide the public a further opportunity to comment on the IFR regarding: existing double hull vessel design requirements; and double hull requirements for non-traditional tank vessels carrying oil in bulk. Verbal and written public comments received by the Coast Guard suggested there was some uncertainty as to the applicability of the Act to vessels that carry oil in bulk or cargo residue, as a secondary cargo.

Subject to the provisions of section 4115 of the Act, this rule applies to all vessels which carry oil in bulk or cargo residue, which includes tank vessel, tank barge, and a vessel certificated as a cargo or passenger vessel that carries limited quantities of oil in bulk.

The Maritime Prepositioning Ship Program was initiated through the U.S. Navy and Marine Corps, using time chartered U.S. commercially operated dry cargo vessels, to carry military logistic supplies in a pre-loaded condition. These existing vessels are certificated to carry a limited quantity of bulk oil, to fuel their primary cargo of military vehicles.

The Coast Guard has no discretion to waive or exempt requirements of double

hull protection by the Act. Cargo tanks on these vessels must be protected in accordance with this rule. The Secretary of the Navy may extend the NDW for these vessels to include the double hull requirements for their cargo oil tanks. Presently, these vessels are not required to meet the double hull rules until 23 years into their time charter with the U.S. Government.

The notes provided in 46 CFR 70.05 and 46 CFR 90.05 to clarify the applicability of this rule to cargo and passenger vessels, have not changed due to these comments.

3. 33 CFR 157.03(aa). Four comments were received requesting interpretations on the cargo tank length definition. These four comments were from vessel designers or classification societies, who felt unsure on the meaning of the IFR stated definition for cargo tank length and requested how the definition was to be interpreted for actual proposed double hull tank vessel designs. Two additional comments were received recommending that the cargo tank length definition of the IFR be harmonized with the definition provided by the term ''L_t'', in § 157 Appendix C. The definition of the term ''L_t'' in § 157 Appendix C is the same as the definition of cargo tank length provided by Regulation 13E of Annex I, MARPOL 73/78.

The Coast Guard's intent, as specified in the IFR preamble, was to be consistent with the international double hull design standards and to ensure that compliance and enforcement was equal for U.S. and foreign vessels meeting these rules. The existing cargo tank length definition in § 157.03 was promulgated under the segregated ballast requirements of the Port and Tanker Safety Act of 1978.

The Coast Guard modified this definition in the development of the IFR to ensure it not only addressed tankships, but also barges. The above comments illustrate that the IFR definition still may cause confusion regarding the cargo tank length of the vessel requiring double hull protection.

Also, the Coast Guard has noted that non-standard tank vessels, such as dry cargo, break bulk, or passenger vessels, which carry oil as a secondary cargo, may not fit the cargo tank length definition in the IFR.

To ensure consistency with international standards, allow use with non-standard tank vessels, and assist in the conversion of existing single hull tankships to double hulls, the cargo tank length definition has been amended in § 157.03(aa) to harmonize it with the definition of ''L_t'' in § 157 Appendix C, and thus MARPOL 73/78.

Various designs for rebuilding, converting, and installing new double hull bodies on existing single hull tankships, have been provided to the Coast Guard for review and interpretation under the IFR. The IFR definition has been found to limit the ability to redesign existing hull configurations where a cargo pump room is located forward of the engine room's forward bulkhead. In these designs, fuel tanks integral with the engine room extend over or around the cargo pump room. To double hull these fuel tanks would limit the fuel capacity of the vessel and its ability to trade, but would not increase the protection of the cargo tank block. Risk of damage in this after area of the vessel is historically low and in most designs the cargo pump room extends below the fuel tanks providing them with bottom void protection, that equals or exceeds double bottom height standards.

Changing the cargo tank length definition will not affect barges. The after perimeter for cargo tank length of barges would be the same under the U.S. and international definitions.

4. 33 CFR 157.10d(b). Ten comments recommended an expansion of § 157.10d(b)(1) to permit alternatives to double hulls. These comments support a number of design alternatives which were discussed in the IFR.

A report was provided to Congress by the Coast Guard in December 1992, titled, ''Alternatives to Double Hull Tank Vessel Design.'' The report, required by Section 4115(e) of OPA 90, evaluated alternative tank vessel designs to the double hull, to determine which, if any, could provide protection to the environment equal to or exceeding the double hull.

The report's conclusions were: (1) At this time, the Coast Guard has not identified equivalent designs to the double hull tanker for the prevention of oil outflow due to groundings; (2) shortcomings exist in the current tanker evaluation methodology; (3) environmental performance standards and a specific methodology for the evaluation of alternative designs in terms other than oil outflow are not fully developed; and, (4) probabilistic computer modeling shows promise as a useful tool for initial evaluation of future designs.

The report's recommendations were: (1) That no change in the present OPA 90 legislation be made at the time of the report; (2) that the Coast Guard continue to evaluate novel designs and technology submitted, reporting any suitable alternatives to double hulls to Congress as they are identified; (3) that the Coast Guard support continued research in the development of an evaluation and prediction capability that will enable a more accurate assessment of oil outflow due to grounding based on the recommendations outlined in the Carderock Division, Naval Surface Warfare Center (formerly the David Taylor Model Basin) test results; (4) that the Coast Guard, on behalf of the United States, continue to support efforts of the IMO to develop international environmental performance standards for tankers, by participation in finalizing the guidelines for the evaluation of alternative designs already circulated to IMO member governments; and, (5) that the Coast Guard, on behalf of the United States, continue to support the efforts of IMO to develop an internationally approved probabilistic methodology which can be applied to oil outflow analysis, risk assessment and vessel survivability.

OPA 90, section 4115, accepts only the double hull design. An amendment to OPA 90 would be needed to allow for acceptance of any alternative tank vessel designs. Twelve comments support that the double hull be the only acceptable design for use in U.S. waters. These comments provide a number of reasons why the double hull is a superior design to protect the environment which are in accord with the Coast Guard's report on alternative tank vessel designs.

One additional comment favored further research on the probability of oil outflow for the determination of equivalency designs to the double hull.

Work on the probability of oil outflow is being completed by an IMO Working Group to establish guidelines for equivalency to Regulation 13F of Annex I of MARPOL 73/78. The United States submitted the above Coast Guard report to Congress with its enclosures to IMO as an information paper at MEPC 34 (MEPC 34/INF.18) in July 1993. The United States is actively involved and supporting the studies of the MEPC Working Group to ensure that the international and U.S. standards may parallel the guidelines of acceptance for alternative tank vessel designs.

Two comments were received on the allowable strength of double hull design and one on alternative materials acceptable for double hull tank vessel construction.

Under 46 CFR 31.10–1 the U.S. accepts the American Bureau of Shipping (ABS) standards, ''Rules for Building and Classing Steel Vessels,'' for the minimum requirements of strength and reliability of hulls, boilers, and machinery for tank vessels. Specific standards for the strength and scantling

of tankship and tank barge construction are in 46 CFR 32.60 and 32.63.

The U.S. also accepts approved plans and the certificates of ABS, or other recognized classification societies, for classed vessels as evidence of structural sufficiency for a vessel's hull. This is not to say that alternative materials to steel will not be acceptable. The Coast Guard, pursuant to recommendations in its report to Congress, has responded to questions by designers, owners, and operators of tank vessels regarding the use of alternative materials to meet the double hull standards of the IFR.

This rule does not prescribe standards for vessel strength or scantlings. Strength and scantling requirements are reviewed in the initial approval or acceptance of a vessel design prior to the vessel's inspection for certification by the Coast Guard. Actions are being taken through the newly established Flag State Implementation (FSI) Sub-Committee at IMO, in conjunction with the International Association of Classification Societies (IACS), to examine classification society and international vessel construction strength rules. Areas of concern involve the use of high tensile steels, reduced corrosion levels in scantlings, and designs in which scantlings or other structural members are susceptible to fatigue fracturing.

5. 33 CFR 157.10d(c). Three comments addressed the dimensions for double bottom height prescribed in § 157.10d(c)(2). Two comments supported larger protective double bottom spacing (B/15 or 2 meters, whichever is greater), while one comment suggested that the height for a vessel's double bottom spacing be determined using a mean sized vessel's beam which would enhance inspection and maintenance capabilities for smaller beamed vessels and not penalize beamier vessels (specifically barges) that usually operate at a shallower draft.

The major concern stated was that larger vessels, specifically those over 100,000 deadweight tons (DWT), would be allowed to default to a height of 2 meters under the IFR requirement of B/15 or 2 meters, whichever is less. It was also stated in the comment that the National Research Council (NRC) recommended the dimension requirement for double bottom height be, ''B/15 or 2 meters, which ever is greater,'' in their study, ''Tanker Spills: Prevention by Design.'' The Coast Guard notes that in that study's Executive Summary, the NRC recommended that more research was needed to determine the spacing between hulls that best satisfies all concerns.

What is not taken into account by the comment is that the double bottom height of the larger vessels will also be affected by the requirement of § 157.10d(c)(4). For larger tank vessels to meet the trim and stability aggregate volume ballast requirements of this section, a 2 meter spacing of the double bottom and double side voids, is generally not large enough to provide the volume of ballast required. Thus, either the double bottom or side spacing, or both, must be expanded to meet this trim and stability requirement, and results in the height or width of these spaces being larger than required by the minimum standards.

The Coast Guard considers the double hull dimensions of the IFR to appropriately balance economic and environmental concerns. There have been two recent groundings of vessels which met the B/15 or 2 meters criteria. In both instances the outer hulls were breached but the inner hulls were not damaged enough to allow any loss of cargo. Both vessels were able to offload their cargoes safely, and proceed in ballast to shipyards for major bottom hull repairs.

This design standard has received strong public consensus and been incorporated in IMO's accepted Regulation 13F of Annex I of MARPOL 73/78 for international vessel double hull design standards. The Coast Guard considers international consistency to be extremely important due to the global nature of the marine transportation of oil. Therefore, this final rule makes no change to the parameter of the double bottom spacing standards for double hull design.

6. 33 CFR 157.10d(c), continued. Two comments were received regarding the double hull protection required by § 157.10d(c) (1) and (2) to include fuel tanks. One comment supported the IFR standard for protection of fuel oil tanks only within the cargo tank length as discussed in paragraph 3, while the second comment stated that the IFR violated OPA 90 by failure to require double hull protection for bunker fuel tanks throughout the vessel's length.

As discussed in detail in the IFR, the Coast Guard does not concur that OPA 90 requires the protection of fuel oil tanks outside of vessel's cargo tank length. Thus, no change has been made and fuel oil tanks aft of the cargo tank length (defined in 33 CFR 157.03(aa)) are not required to be double hull protected.

7. 33 CFR 157.10d(c), continued, and 157.10d(d). Eight comments recommended that existing double hull tank vessels be permitted to continue operating, even if the dimensions of such vessel, specifically the double bottom height, do not meet the existing vessel double hull standards of § 157.10d(c)(2)(iii). Two comments supported that the existing double hull dimension standards remain as published in the IFR.

The Coast Guard previously responded to comments such as these in the IFR preamble for vessels contracted before June 30, 1990, and reduced the dimensional requirements for existing double hulls in § 157.10d(c)(1)(iii) for double side width, and § 157.10d(c)(2)(iii) for double bottom height. These dimensional standards are consistent with the international standards of Regulations 13G of Annex I of MARPOL, as adopted by MEPC 32.

The comments received did not provide significant information to support a need to reduce the double bottom minimum dimension standards. To reduce these standards further would restrict existing double hull vessels from trading internationally. As noted below, domestic vessels on limited routes do have reduced double hull spacing standards.

The Coast Guard has not changed the minimum dimensions acceptable for existing double hull tank vessels in this final rule. The owners of those existing double hull tank vessels that do not meet the minimum dimensions in this rule may request an equivalency determination under the provisions of § 157.07. If the Coast Guard determines that this has a substantial impact on existing vessels because they are unable to meet the equivalency provisions, the Coast Guard may consider a future change to this rulemaking.

One comment stated that the dimension requirements of § 157.10d(d)(3) which allows vessels less that 10,000 DWT that operate exclusively on inland and certain coastwise routes to reduce double hull design standards due to route are not warranted. This comment did not provide any documentation which supported the need for larger dimensional spacing for double hull standards on these vessels of limited size and route. The Coast Guard does not concur with this comment.

All vessels which are constructed or adapted to carry, or carry, oil in bulk as cargo or cargo residue must be double hulled under OPA 90 mandate. Vessels under 10,000 DWT (roughly 5,000 gross tons) are not exempt from this requirement. Under section 4115 of OPA 90, ''a vessel of less than 5,000 gross tons equipped with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of the discharge

of oil * * *,'' may be exempted from the requirement for a double hull. To date, the Coast Guard has not accepted any double containment system proposals.

8. 33 CFR 157.10d(d). One comment stated that the use of minimum dimensions for double hull spaces could limit access for the proper inspection and maintenance of tank vessels. Nothing in this rule requires the use of minimum dimensions for double hull vessel design and construction. The Coast Guard encourages designers and builders to consider equally the inspection and safety requirements for access of personnel to double hull areas. Recent presentations to the Coast Guard by companies and individuals designing vessels with double hull configurations, met or exceeded expectations for access, inspection, and human engineering allowance for double hull spaces.

As the Coast Guard reviews and approves plans for U.S. flag vessels before construction or major modification, these areas will be closely examined. No change to this rule was made.

9. 33 CFR 157.11(g)(1). One comment recommended that a new subparagraph be added to this section which prohibited the placement of cargo piping in voids or duct keels within the double bottom space. The discussion of this recommendation stated that cargo piping located within the cargo tank offers some degree of protection from damage due to groundings and it is likely that such an arrangement would allow the piping system to be available for transfer of cargo in salvage operations in all but the most severe of incidents.

The Coast Guard agrees with the discussion of this recommendation in part, but does not agree that a subparagraph needs to be added to this section. § 157.19 already ensures the height of cargo piping from vessel's bottom plating which similarly protects it from damage in a grounding situation.

Duct keels, which can be used for the pathway of cargo piping through a vessel's cargo block area within a box keel, must be isolated from double bottom ballast tanks, as cargo piping is not allowed in these spaces under § 157.11(g)(1)(ii). Duct keels have been used extensively in the design of liquid bulk oil carriers to allow for a separation of cargo lines from the ballast tanks while making the pipes available to examination and repair even when the vessel is in operation.

The duct keel, which has the heaviest scantlings of the vessel bottom, including bottom plating, assists in the protection of the cargo piping system in this design. The rule was not changed due to this recommendation.

10. 33 CFR 157.19. One comment stated that the cargo tank size limitation requirement of this section, for vessels under 5000 DWT, was arbitrary and its restriction would cause operational oil pollution increases. Further, it stated that many existing double hull inland river box barges carry approximately 10,000 barrels of cargo in two cargo compartments of 5,000 barrels each. This section will necessitate addition of a third compartment to vessels of this DWT size, with tank capacities limited to less than 4,400 barrels.

As discussed in the IFR, size limitation is a provision of Regulation 13F, paralleled in U.S. regulations. This requirement limits the size of individual cargo tanks on new vessels under 5,000 DWT, to no more than 700 cubic meters (4,400 bbls), unless double sides are fitted. The IFR and this final rule require a vessel of that size to have double sides and double bottoms.

The Coast Guard has not made any changes to § 157.19, as the double hull protection required for tank vessels by this rule surpasses the requirements of double side protection required by Regulation 13F. As any new tank barges will require double hull protection, the 4,400 bbls cargo tank size limit will not apply.

11. 46 CFR 32.53. One comment recommended that inert gas requirements for double hull spaces be closely evaluated, as proposed in the IFR, prior to future rulemaking. Actions are continuing in this area of concern at IMO.

At the 61st session of IMO's Maritime Safety Committee (MSC 61), Resolution MSC.27(61) was adopted as an amendment to SOLAS 74, regarding new equipment and operation standards for new and existing vessels. This resolution was accepted on April 1, 1994, as a specified majority of the Parties signatory to SOLAS 74 did not declare objection to the resolution.

The Resolution was published in total as part of NVIC No. 3–93 on April 12, 1993. In Resolution MSC.27(61), Regulation 59—''Venting, purging, gas-freeing and ventilation,'' was amended by adding a new paragraph 4 to the existing regulation. The amended Regulation 59 is republished below for the readers information:

''4 *Inerting, ventilation and gas measurement*

4.1 This paragraph shall apply to oil tankers constructed on or after 1 October 1994.

4.2 Double hull and double bottom spaces shall be fitted with suitable connections for the supply of air.

4.30 On tankers required to be fitted with inert gas systems:

.1 double hull spaces shall be fitted with suitable connections for the supply of inert gas;

.2 where such spaces are connected to a permanently fitted inert gas system, means shall be provided to prevent hydrocarbon gases from the cargo tanks entering the double hull spaces through the system;

.3 where such spaces are not permanently connected to an inert gas system, appropriate means shall be provided to allow connection to the inert gas main.

4.4.1 Suitable portable instruments for measuring oxygen and flammable vapor concentrations shall be provided. In selecting these instruments, due attention shall be given for their use in combination with the fixed gas sampling line systems referred to in paragraph 4.4.2.

4.4.2 Where atmosphere in double hull spaces cannot be reliably measured using flexible gas sampling hoses, such spaces shall be fitted with permanent gas sampling lines. The configuration of such line systems shall be adapted to the design of such spaces.

4.4.3 The materials of construction and the dimensions of gas sampling lines shall be such as to prevent restriction. Where plastic materials are used, they should be electrically conductive.

This SOLAS amendment does not require permanently inerted double hull voids, since inert gas poses a danger to personnel and may also tend to accelerate corrosion in ballast tanks. This amendment requires that connections be available to supply both air and inert gas to ballast tanks within the double hull, and requires the capability to ensure that safe atmospheres are available within them for operational and personnel safety.

The Coast Guard is reviewing enforcement and regulatory requirements due to the acceptance of IMO Resolution MSC.27(61) amendments. If regulatory action is deemed necessary for vessels other than those on international routes which must meet SOLAS 74 regulations, the Coast Guard will propose regulations in a future rulemaking.

General Comments (Non-CFR Specific)

12. Ten comments recommended that the IFR be adopted as a final rule with no changes, and that the double hull rules be the only accepted design standards. Various reasons were provided, most with the implication that the double hull would be the best for providing protection to the

environment. Except for changes discussed above, the Coast Guard agrees with these recommendations.

13. Two comments recommended that double hull designs require continuous centerline bulkhead standards or stability limitations, as this design would have a tendency to react erratically due to free surface effect during loading and offloading situations where the vessel's tanks are in a partially loaded condition.

The Coast Guard notes that some new double hull tanker designs without longitudinal bulkheads, though meeting MARPOL and IFR double hull design standards, have inferior intact stability characteristics than tankers with longitudinal bulkheads. The Coast Guard, working with IMO's Stability, Loadlines and Fishing Vessels Safety (SLF) Sub-Committee, is conducting an ongoing review of the need for additional longitudinal bulkhead requirements on double hull designs. Most designs, even without centerline bulkheads, can be safely operated by vessel officers following loading and discharge instructions in the vessel's loading manual.

Review and study of these intact stability requirements are being completed and the Coast Guard is proposing the implementation of new stability requirements under a separate rulemaking (CGD 91–206). Interim guidance on stability for double hull tankers has been provided in NVIC 4–92.

Regulatory Evaluation

This rulemaking is a significant regulatory action under section 3(f) of Executive Order 12866 and has been reviewed by the Office of Management and Budget under that order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that order. It is significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). An analysis of the double hull rules is in the public docket. Implementation is projected to gradually increase the transportation cost of oil by four-tenths of a cent per gallon over the next 25 years.

This double hull rulemaking is one of several rules which are being issued in accordance with Titles IV and V of OPA 90. Some of these rules interact with each other. The overall impact of these rules may not equal the cumulative total impact of each rule considered individually. For example, the beneficial impact of the double hull rule is the reduced amount of oil spilled after certain grounding or collision casualties. However, the impact of this rule will be reduced by other OPA 90 rulemakings and other actions that will improve operational and navigational safety of vessels which carry oil in bulk. These other actions will reduce the numbers of collisions and groundings which, in turn, reduce the overall benefits of (or, total spill reduction attributable to) double hull construction.

The Coast Guard intends to conduct a comprehensive, programmatic RIA for all Title IV and V OPA 90 rules, once they are all completed and issued. This comprehensive RIA will evaluate the interaction of the rules relative to each other, and assess their impacts in total. However, since the rules are being developed and issued individually over several years, each rule is being evaluated by itself through an interim regulatory impact analysis (Interim RIA).

Accordingly, an Interim RIA of this rule was prepared and placed in the public docket. The Interim RIA addresses the need for this rulemaking, the standards adopted in this rule, the alternatives to this rule, and the anticipated economic impacts of this action. A Notice of Availability of the Interim RIA was published in the **Federal Register** on January 15, 1992 (57 FR 1854), and public comments on the Interim RIA were invited. Six comments were received; none of the comments resulted in revision of the Interim RIA. However, an addendum to the Interim RIA has been placed in the public docket to reflect an increase in the projected economic benefits of spill prevention. A discussion of this increase is included in the summary of public comments on the cost of this rule published in the IFR of August 12, 1992 (57 FR 36222). In that there is so little change in this rule from the IFR, the Interim RIA, as amended, is adopted as a final assessment under Executive Order 12866.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rulemaking will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) Small businesses and not-for-profit organizations that are independently owned and operated and not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The Coast Guard has evaluated the impact of harmonizing the U.S. cargo tank length definition with the international definition of Regulation 13E of Annex I, MARPOL 73/78 on vessels owned and operated by small business entities. Most vessels owned or operated by small business entities are barges and do not have after cargo pump rooms or main machinery spaces underdeck. The change in the cargo tank length definition in 33 CFR 157.03(aa) will not change the length of a barge required to be double hull protected by the U.S. double hull standards of 33 CFR 157.10d. The only affect of the change in definition will be on tankships. The Coast Guard reviews and approves U.S. vessel construction designs before they are built and has verified that no small entity tankships will be adversely affected by the change in the definition of cargo tank length. The modification of the definition should reduce the construction and operating costs for new tankships designed to meet the double hull standards. Converting existing single hull tankships to meet the double hull standards, when these vessels can no longer operate as single hull vessels, should also be less costly.

Because it expects the impact of this rulemaking to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant impact on a substantial number of small entities.

Collection of Information

This rulemaking contains no additional collection-of-information requirements. Section 33 CFR 157 was revised by the IFR to require the submission of plans verifying compliance with this rule. No additional information collection burden is imposed due to this modification of the cargo tank length definition. Compliance with this rule can be verified from other information that is currently submitted under 33 CFR 157.24 and 46 CFR 31.10.

Under the IFR, the Coast Guard has submitted the information collection requirements in this rule to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and OMB has approved them. The section number is 46 CFR 157.24 and the corresponding OMB approval numbers are OMB Control Numbers 2115–0503 and 2115–0106.

Federalism

The Coast Guard has analyzed this rulemaking under the principles and criteria contained in Executive Order 12612 and has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism assessment.

This final rule amends standards for the construction of double hull tank vessels. The authority to regulate tank vessel construction standards is delegated to the Coast Guard by the Secretary of Transportation, whose authority is committed by statute.

Since tank vessels move between U.S. ports in the national marketplace, and between U.S. and foreign ports in the international marketplace, tank vessel construction is a matter for which regulations should be of national scope to avoid unreasonably burdensome variances. The Coast Guard received no comments addressing the federalism implications during the comment periods of the IFR. Therefore, the Coast Guard continues the long-established practice of preempting State action addressing the same subject matter.

Environment

The Coast Guard environmental assessment (EA) for Double Hull Design Requirements for Tank Vessels was prepared in accordance with Commandant Instruction M16475.1B, the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91–190), and the Council of Environmental Quality Regulations of July 1, 1986 (40 CFR parts 1500–1508).

This rule adopts the IFR as final with minor changes to definitions implementing the double hull provisions in Section 4115(a) of OPA 90 (46 U.S.C. 3703a), and is not expected to result in significant impact on the quality of the human environment, as defined in NEPA. The Coast Guard has placed a Finding of No Significant Impact (FONSI) in the public docket.

List of Subjects

33 CFR Part 155

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 172

Cargo vessels, Hazardous materials transportation, Marine safety.

Accordingly, the interim rule amending 33 CFR parts 155 and 157, and 46 CFR parts 30, 32, 70, 90, and 172, which was published at 57 FR 36222 on August 12, 1992, is adopted as a final rule with the following changes:

TITLE 33 CFR PART 157—RULES FOR THE PROTECTION OF THE MARINE ENVIRONMENT RELATING TO VESSELS CARRYING OIL IN BULK

1. The authority citation for part 157 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703; 49 CFR 1.46.

2. Section 157.03 is amended by revising paragraphs (v) and (aa) to read as follows:

§ 157.03 Definitions.

* * * * *

(v) *Tank vessel* means a vessel that is constructed or adapted primarily to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(1) Is a vessel of the United States;

(2) Operates on the navigable waters of the United States; or

(3) Transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States. This does not include an offshore supply vessel, or a fishing vessel or fish tender vessel of not more than 750 gross tons when engaged only in the fishing industry.

* * * * *

(aa) *Cargo tank length* means the length from the forward bulkhead of the forwardmost cargo tanks, to the after bulkhead of the aftermost cargo tanks.

* * * * *

Dated: March 1, 1995.

A.E. Henn,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 95–5573 Filed 3–9–95; 8:45 am]

BILLING CODE 4910–14–P

Friday
March 10, 1995

Part V

Department of Education

Jacob K. Javits Gifted and Talented Students Education Program; Final Priorities and Notice Inviting Applications for New Awards for Fiscal Year 1995; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 206A–1]

Jacob K. Javits Gifted and Talented Students Education Program

Notice inviting applications for new awards for fiscal year 1995.

Purpose of Program: To provide grants to help build a nationwide capability in elementary and secondary schools to identify and meet the special educational needs of gifted and talented students; to encourage the development of rich and challenging curricula for all students; and to supplement and make more effective the expenditures of State and local funds for the education of gifted and talented students.

Eligible Applicants: State educational agencies; local educational agencies; institutions of higher education; and other public and private agencies and organizations, including Indian tribes and organizations—as defined by the Indian Self-Determination and Education Assistance Act—and Native Hawaiian organizations.

Deadline for Transmittal of Applications: April 25, 1995.

Deadline for Intergovernmental Review: June 26, 1995.

Applications Available: March 27, 1995.

Estimated Available Funds: $5,000,000.

Estimated Range of Awards: For Absolute Priority 1: $100,000–$250,000; For Absolute Priority 2: $150,000–$300,000.

Estimated Average Size of Awards: For Absolute Priority 1: $200,000; For Absolute Priority 2: $225,000.

Estimated Number of Awards: For Absolute Priority 1: 19; For Absolute Priority 2: 5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months. Please note that all applicants for multi-year awards are required to provide detailed budget information for the total grant period requested. The Department will negotiate at the time of the initial award the funding levels for each year of the grant award.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the regulations for this grant program in 34 CFR part 791, subject to the revised definitions of ''institutions of higher education'', ''local educational agency'' and ''state educational agency'' set forth in 20 U.S.C. 8801.

Priorities: The notice of final priorities as published in this issue of the **Federal Register** applies to this competition.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 791.21.

The program regulations in 34 CFR 791.20 provide that the Secretary may award up to 115 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of Operation (34 CFR 791.21(c)). 5 points are added to this criterion for a possible total of 35 points.

Evaluation Plan (34 CFR 791.21(f)). 10 points are added to this criterion for a possible total of 25 points.

For Applications or Information Contact: Carolyn Warren, U.S. Department of Education, 555 New Jersey Avenue, NW., room 504, Washington, DC 20208–5644. Telephone: (202) 219–2206.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 8031–8036.

Dated: March 6, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–5896 Filed 3–9–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Jacob K. Javits Gifted and Talented Students Education Program

AGENCY: Department of Education.

ACTION: Notice of final priorities.

SUMMARY: The Secretary announces absolute priorities and a competitive preference priority under the Jacob K. Javits Gifted and Talented Students Education Program. The Secretary takes this action to focus Federal financial assistance on specific approaches to identifying and serving gifted and talented students and to developing ways in which the programs and services developed for gifted and talented students can be used to benefit all children. The priorities bring special attention to programs and services for students (including economically disadvantaged individuals, individuals of limited-English proficiency, and individuals with disabilities) who may not be identified and served through traditional gifted and talented programs. The priorities also encourage programs and projects to develop and improve the capability of schools in an entire State or region of the Nation to plan, conduct, and improve programs in schools using, where appropriate, methods and materials developed in gifted and talented programs to improve the educational opportunities for all children. These projects must involve cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, such as business, industry, and labor.

EFFECTIVE DATE: These priorities take effect April 10, 1995.

FOR FURTHER INFORMATION CONTACT: Carolyn Warren, U.S. Department of Education, 555 New Jersey Avenue NW., Room 504, Washington, DC 20208–5572. Telephone: (202) 219–2206. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Jacob K. Javits Gifted and Talented Students Education Program is designed to build nationwide capability in gifted and talented education and encourage rich and challenging curricula for all children.

The Secretary seeks to improve the education of gifted and talented children, and to use the strategies developed in gifted and talented education programs to improve the education of all children in a school. The Secretary believes that this is an integral part of the National Education Goals, which require that every student attain higher standards of academic excellence. Gifted and talented education programs can contribute to systemic reform by modeling a coordinated system of high standards, assessments, challenging curricula, and teacher preparation to improve education. In addition, the Secretary believes that the educational needs of gifted and talented students from populations historically underserved by gifted and talented education programs must be addressed.

In order to carry out these improvements, the Secretary announces a priority that would support the

development of model demonstration programs that focus on economically disadvantaged children, children with limited English proficiency or children with disabilities. The projects are required to involve a school or schools that serve at least 50 percent low-income children and to incorporate professional development of staff and training of parents into their programs.

In addition, the Secretary announces a second priority that encourages cooperative efforts of technical assistance and information dissemination throughout a State or region that focus on how programs and methods for teaching gifted and talented students, where appropriate, could be adapted to improve instruction for all students in schools.

In both absolute priorities, the projects must be based on challenging content and performance standards in one or more of the core subject areas. These priorities focus on projects that incorporate challenging content and performance standards in the core subjects because the Secretary believes that this is the most promising way to raise students' achievement.

The Secretary estimates that at least 75 percent of available funds will be used to support model projects in schools, and 25 percent of available funds will support technical assistance and dissemination projects.

For the first priority involving model programs, the Secretary shall direct financial assistance to projects that primarily benefit urban or rural areas that have been designated as Empowerment Zones or Enterprise Communities in accordance with Section 1391 of the Internal Revenue Code (IRC), as amended by Title XIII of the Omnibus Budget Reconciliation Act (OBRA) of 1993.

Background on Empowerment Zone and Enterprise Community Program

The Empowerment Zone and Enterprise Community program is a critical element of the Administration's community revitalization strategy. The program is the first step in rebuilding communities in America's poverty-stricken inner cities and rural heartlands. It is designed to empower people and communities by inspiring Americans to work together to create jobs and opportunity.

On December 21, 1994, the President announced the designation of 6 urban and 3 rural empowerment zones and 65 urban and 30 rural enterprise communities in accordance with Internal Revenue Code section 1311, as amended by Title XIII of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66). A list of these empowerment zones and enterprise communities will be included in the application package.

To have been eligible for designation, an area must have been nominated by one or more local governments and the State or States in which it is located or by a State-Chartered Economic Development Corporation. A nominated area must be one of pervasive poverty, unemployment, and general distress, and must have a poverty rate of not less than the level specified in section 1392 of the Internal Revenue Code.

In the Empowerment Zone and Enterprise Community program communities were invited to submit strategic plans that comprehensively address how the community would link economic development with education and training as well as how community development, public safety, human services, and environmental initiatives will together support sustainable communities. Empowerment Zones and Enterprise Communities were designated by the Department of Agriculture and the Department of Housing and Urban Development (HUD) based on the quality of their strategic plans. Designated areas will receive Federal grant funds and substantial tax benefits and will have access to other Federal programs. (For additional information on the Empowerment Zones and Enterprise Community program contact HUD at 1–800–998–9999.)

The Department of Education is supporting the Empowerment Zone and Enterprise Community initiative in a variety of ways. It is encouraging Empowerment Zones and Enterprise Communities to use funds they already receive from Department of Education programs (including Title I of the Elementary and Secondary Education Act, the Drug-Free Schools and Communities Act, the Adult Education Act, and the Carl D. Perkins Vocational and Applied Technology Education Act) to support the comprehensive vision of their strategic plans. In addition, the Department of Education is giving preferences to Empowerment Zones and Enterprise Communities in a number of discretionary grant programs that are well suited for inclusion in a comprehensive approach to economic and community development. For example, the Department has already given preference in the following programs: the Urban Community Service program, Rehabilitation Act Projects with Industry program, the Rehabilitation Act Special Demonstration Projects program, the Parent Training program, and the Early Childhood Education program under the Individuals with Disabilities Education Act. In addition to the Javits Gifted and Talented Students Education Program described in this notice, the Department intends to give preferences to Empowerment Zones and Enterprise Communities in a variety of discretionary programs under the Elementary and Secondary Education Act. Notices concerning those programs will be published at a later date.

The Empowerment Zone and Enterprise Community initiative and the Javits Gifted and Talented Students Education Program share some common features. Both programs are concerned with the educational advancement of students caught in high-poverty communities. Under the Javits Gifted and Talented Students Education Program, at least one-half of the grants in any given year must serve students who are economically disadvantaged, limited English proficient or who have disabilities.

Communities that are designated under the Empowerment Zone and Enterprise Community program will already have demonstrated a capacity for the type of cooperative planning that allows communities to use, where appropriate, methods and materials developed in gifted and talented programs to improve the educational opportunities for all children.

On October 28, 1994, the Secretary published a notice of proposed priorities for this program in the **Federal Register** (59 FR 54368).

Note: This notice of final priorities does *not* solicit applications. A notice inviting applications under these priorities for fiscal year 1995 is published in a separate notice in this issue of the **Federal Register**.

Analysis of the Comments and Changes

In response to the Secretary's invitation on the notice of proposed priorities, two of the five parties submitting comments made recommendations. One of the commenters expressed support for the priority without making recommendations for change. Two of the commenters asked for more information on Empowerment Zones and Enterprise Zones when this information is available. An analysis of the recommendations submitted by two commenters follows.

Comments: One commenter asked for clarification on the term ''technical assistance'' used in Priority 2.

Discussion: ''Technical assistance'' refers to a broad array of activities designed to help schools and local communities serve students more effectively. The Secretary believes that technical assistance could include such activities as professional development

of teachers and administrators, consultation with local schools and community groups on promising practices, demonstrations by staff of successful projects, evaluation of current practices in a school or of an individual educator with recommendations for improvement, brokering of resources to serve a school or community better, mentoring of novice educators by more experienced educators, and establishing networks of educators interested in specific topics.

Changes: None.

Comments: One commenter objected to the idea of commingling the worthwhile objectives to serve disadvantaged students with those objectives devoted to gifted and talented students, as the commenter believes they are not the same. The commenter urged the withdrawal of these proposed priorities.

Discussion: The legislation creating the Jacob K. Javits Gifted and Talented Students Education Program gives priority to programs serving economically disadvantaged, limited English proficient, and disabled students who are gifted and talented. The Secretary believes that there are many gifted and talented students who come from disadvantaged backgrounds, and who are not recognized or served by traditional gifted and talented education programs. He believes that these projects will serve as models for ways to identify and serve these students more effectively.

Changes: None.

Priorities

The Secretary announces that at least 75 percent of available funds will support model projects in schools developed under absolute priority number 1, and 25 percent of available funds will support technical assistance and dissemination projects developed under absolute priority number 2.

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet one of the following two priorities. The Secretary funds under this competition only applications that meet one of these absolute priorities:

Absolute Priority 1—Model Programs

Projects that establish and operate model programs for serving gifted and talented students in schools in which at least 50 percent of the students enrolled are from low-income families. Projects must include students who may not be served by traditional gifted and talented programs, including economically disadvantaged students, individuals of limited English proficiency and individuals with disabilities. The projects must incorporate high-level content and performance standards in one or more of the core subject areas as well as utilize innovative teaching strategies. The projects must provide comprehensive ongoing professional development opportunities for staff. The projects must incorporate training for parents in ways to support their children's educational progress. Projects must also include comprehensive evaluation of project activities.

Competitive Preference Priority—Empowerment Zone or Enterprise Community

Within this absolute priority concerning model projects, the Secretary, under 34 CFR 75.105(c)(2)(i), gives preference to applications that meet the following competitive priority. The Secretary awards five (5) points to an application that meets this competitive priority. These points would be in addition to any points the application earns under the selection criteria for the program:

Projects that implement model programs in one or more schools in an Empowerment Zone or Enterprise Community. Applicants must ensure that the proposed program relates to the strategic plan and will be an integral part of the Empowerment Zone or Enterprise Community program.

Absolute Priority 2—Technical Assistance and Information Dissemination Throughout a State or Region

Projects to provide technical assistance and disseminate information throughout a State or region to improve the capability of schools to plan, conduct and improve programs for serving gifted and talented students. Projects must include assistance and information on how programs and methods for teaching gifted and talented students can be adapted, where appropriate, to improve instruction for all students in schools. These projects must be based on challenging content and performance standards in one or more of the core subject areas, and incorporate innovative teaching strategies. The projects must involve cooperative efforts among State and local education agencies, institutions of higher education, and/or other public and private agencies and organizations (including business, industry, and labor).

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Applicable Regulations: 34 CFR part 791.

Program Authority: 20 U.S.C. 8031–8036.

(Catalog of Federal Domestic Assistance Number 84.206A, Jacob K. Javits Gifted and Talented Students Education Program)

Dated: March 6, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–5897 Filed 3–9–95; 8:45 am]

BILLING CODE 4000–01–P

Friday
March 10, 1995

Part VI

Department of Justice

Office of Justice Programs
Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31
Formula Grants; Final Rule

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

[OJP No. 1045]

RIN 1121–AA28

Formula Grants

AGENCY: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Final regulation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing the final revision of the existing Formula Grants Regulation, which implements part B of Title II of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1992.

The 1992 Amendments reauthorize and modify the Federal assistance program to State and local governments, and private not-for-profit agencies for juvenile justice and delinquency prevention improvements. The final revision to the existing Regulation provides clarification and guidance to States in the formulation, submission and implementation of State Formula Grant plans and determinations of State compliance with plan requirements. It provides additional flexibility and guidance to participating States while strengthening several key provisions related to the mandates of the JJDP Act.

EFFECTIVE DATE: This regulation is effective March 10, 1995.

FOR FURTHER INFORMATION CONTACT: Roberta Dorn, Director, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue NW., Room 543, Washington, DC 20531; (202) 307–5924.

SUPPLEMENTARY INFORMATION:

Statutory Amendments

The 1992 reauthorization of the JJDP Act resulted in statutory amendments that impact the Formula Grants Program (28 CFR part 31). These statutory changes include: a formula grant fund allocation minimum base for participating States and territories; elimination of the ''substantial compliance criteria'' with respect to the Deinstitutionalization of Status Offenders (DSO) and Jail and Lockup Removal requirements because full compliance is required; a requirement that there be separate juvenile and adult staff with respect to management, security and direct care in juvenile detention facilities that are collocated with an adult jail or lockup; and a provision that a status offender alleged or found in a judicial hearing to have violated a valid court order (VCO) may be held in a secure juvenile detention or correctional facility only if enhanced due process and procedural protections have been provided.

The Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103–322, September 13, 1994) amended the DSO provision of the JJDP Act to exclude juveniles charged with or adjudicated for possessing a handgun from coverage under the DSO requirement.

The final regulation details revised procedures and requirements for States participating in the Formula Grants Program resulting from the 1992 Amendments to the JJDP Act (Pub. L. 102–586, November 18, 1992).

Description of Major Changes

Formula Grant Allocations

Section 222(a) of the JJDP Act, provides for a ''floating minimum'' for the allocation of formula grants to States and Territories that is tied to the total appropriation level for Title II in a given fiscal year (FY). For FY's 1994 and 1995, the total appropriation for Title II exceeded $75 million and Congress appropriated sufficient funds to maintain each State at least at its FY 1992 funding level and raise the minimum allocation for each State and Territory to $600,000 and $100,000 respectively.

Application Deadline

The submission requirement for formula grant applications is changed to require that FY 1995 applications and all subsequent applications be submitted to OJJDP no later than March 31 of the fiscal year for which the funds were allocated.

State Agency Structure—Staffing

The regulation is revised to require the assignment of one full-time Juvenile Justice Specialist to manage the Formula Grants Program.

Collocated Juvenile and Adult Facilities

The regulation clarifies the existing four criteria for a juvenile detention facility that is collocated with an adult jail or lockup by providing for: (1) Total separation in spatial areas of juvenile and adult facilities can be achieved by providing for no common use areas, including time-phasing; (2) total separation in juvenile and adult program activities requires the formulation of an independent and comprehensive operational plan for the juvenile facility which provides a full range of separate program activities for juveniles; (3) separate juvenile and adult staff includes all management, security and direct care personnel; and (4) in States that have standards or licensing requirements for secure juvenile detention facilities, a collocated facility must meet the standards on the same basis as separate facilities and be licensed as appropriate.

OJJDP intends these clarifications to enhance and strengthen the four separate facility requirements for States completing final steps to achieve and maintain full compliance with the jail and lockup removal requirement. State certification and oversight responsibilities are strengthened by requiring annual on-site review. The 1992 Amendments require States to review and ensure compliance with the separate staff criterion in all collocated facilities, including those classified as such by the State and concurred with by OJJDP prior to the effective date of this regulation.

OJJDP believes the ideal or most optimal setting for a juvenile detention facility is one in which the facility is not collocated with an adult jail or lockup. Further, OJJDP believes that jurisdictions and States should not rely upon collocated facilities as a primary or long-term strategy for achieving and maintaining compliance with the jail and lockup removal mandate. However, OJJDP believes that where there is a demonstrated need for an existing or planned collocated facility, jurisdictions should have the flexibility to use such a facility, but only where the enhanced requirements, critical to ensuring an appropriate environment for detained youth, are met. Collocated juvenile detention facilities approved by the State and concurred with by OJJDP prior to March 31, 1995 are to be reviewed against the regulatory criteria and OJJDP policies in effect at the time of the initial approval and concurrence, except that all collocated facilities are subject to the separate staff requirement established by the 1992 Amendments.

OJJDP's concurrence on all collocated facilities submitted for OJJDP review after March 31, 1995 is limited to one year and, thereafter, would be reviewed on an annual basis. An on-site review of the facility must be conducted by the compliance monitoring staff for the State agency administering the JJDP Act Formula Grants Program. OJJDP's concurrence may also require on-site

review by OJJDP staff. Additionally, in order to receive OJJDP's initial and subsequent concurrence, a juvenile detention facility approved after March 31, 1995 must, pursuant to a written policy and procedure, only provide secure custody for: juvenile criminal-type offenders; status offenders accused of violating a VCO; and adjudicated delinquents and VCO order violators who are awaiting disposition hearings or transfer to a long-term juvenile correctional facility.

Criteria for Compliance with DSO, Adult Jail and Lockup Removal, Separation, and Minority Over-representation

The regulation deletes the ''substantial compliance'' criteria from Section 31.303(c)(3) and (e)(4). Pursuant to the 1992 Amendments, participating States are required to be in full compliance with the DSO and Jail and Lockup Removal mandates and demonstrate compliance with the Separation and Enhanced Disproportionate Minority Confinement (DMC) in order to be eligible for FY 1994 and subsequent year Formula Grant funds. Therefore, the regulatory provision recognizing ''progress'' toward compliance with the Separation mandate is being deleted. Also, enhanced criteria and specific time lines are established for the DMC Mandate.

Deinstitutionalization of Status Offenders

The regulation brings the DSO requirement in line with the Section 223(a)(14) Jail and Lockup Removal requirement by eliminating the monitoring report exclusion for status offenders and nonoffenders securely detained or confined in an adult jail or lockup for less than twenty four hours exclusive of weekends and holidays. This reflects OJJDP's determination that there are no longer any circumstances in which the secure custody of noncriminal juveniles in adult jails and lockups can be justified or sanctioned. To the extent that inadvertent or isolated violations occur, or where violations result from emergency situations, the de minimis criteria for full compliance should continue to provide sufficient latitude to permit States to maintain full compliance with the DSO requirement. Monitoring information to reflect this change must be included in the State Monitoring Report due by December 31, 1995, and subsequent monitoring reports.

Discussion of Comments

The proposed revisions to the existing Formula Grants Regulation were published in the **Federal Register** on July 25, 1994 (59 FR 37866), for public comment. Written comments were received on ten issues addressed by the proposed regulation. All comments have been considered by OJJDP in the issuance of this final regulation.

The following is a summary of the comments and the responses by OJJDP:

l. Comment: One respondent felt that States should be allowed to submit their Annual Performance Reports ninety days after the end of their reporting period, but no later than June 30th.

Response: States are allowed under the final formula grants regulation to submit their Annual Performance Report, ninety days after the end of their reporting period, but no later than June 30th. The regulation merely formalizes the existing policy of States submitting their required Performance Reports by June 30th of each year.

2. Comment: Another respondent was of the opinion that a person who routinely provides legal representation to youth in juvenile court should be added to the State Advisory Group membership requirement.

Response: Section 223(a)(3) already requires representation of ''law enforcement and juvenile justice agencies'' including ''counsel for children and youth'' on the State Advisory Group.

3. Comment: With respect to DMC, States need more time to achieve compliance because the issue is too complex. States were given more time to achieve compliance with DSO, Separation, and Jail Removal. Several respondents indicated that more research is needed before effective interventions can be designed and implemented. Respondents expressed concern that the problem of DMC goes beyond the juvenile justice system and other systems need to be addressed. One respondent suggested that States should be required to review and address the effects of legislation on minority over-representation. A recommendation was also made that States' multi-year formula grant plans and annual plan updates should identify and explain any anticipated action steps from a previous formula grant plan that have not been carried out.

Response: States had five years to reach full compliance on DSO, and eight to reach full compliance on Jail and Lockup Removal. Congress initially addressed DMC in 1988. Congressional action on the 1992 Reauthorization of the JJDP Act makes it clear that States are expected to move forward on DMC. The OJJDP regulation reflects the additional priority Congress has attached to DMC.

The experience of OJJDP and most States supports the public comment about the complexity of DMC. OJJDP recognizes that successful approaches to DMC include lessons learned from DSO, Separation, and Jail Removal. For instance, addressing the relationship between attitudes and behavior, and ensuring local ownership of program initiatives, contributed significantly to progress on the earlier mandates. Ultimate success on DMC will, however, require a concerted and comprehensive approach that goes beyond the earlier mandates. Accordingly, the implementation phase activities set forth in the regulation acknowledge the need to look beyond a narrow focus on police, probation, courts, and corrections. Meaningful prevention (including health, mental health, education and vocational) and intervention resources must be available on an equitable basis, and States need to assess the impact of executive, legislative, and judicial policies on DMC.

The final regulation establishes an expectation that States will examine legislative initiatives which may inadvertently contribute to DMC. Also, the final regulation includes a modification that has States explain in their formula grant plans, any previously slated DMC activities that were not carried out.

4. Comment: One respondent stated that there is no difference between a court intake agency preparing the advisory report required prior to a dispositional commitment to a secure facility for violation of a VCO, and an intake unit operated by a human service agency completing the report. Another respondent questioned whether an advisory report would be allowable if it was prepared by a multidisciplinary review team comprised entirely of court and law enforcement agency workers. Other respondents expressed concern that the report could not be completed between apprehension and an initial hearing; that the report would allow a third party to influence the court's decision making process; and, that the new advisory report requirement makes the VCO violation process too restrictive. One commentator was uncertain about the difference between a VCO violation and contempt of court. A question was raised about whether an advisory report would be required for an adjudicated delinquent who absconds from a court-ordered secure treatment facility. One person recommended that the regulation contain an explicit requirement for legal representation of youth during the VCO violation process.

Response: The statute requires that the advisory report be prepared by an appropriate public agency (other than a court or law enforcement agency). A review team composed only of court and law enforcement officials is probably not amenable to the term ''multidisciplinary.'' Nonetheless, if the team were operating under the auspices of, and answerable to, an agency other than a court or law enforcement agency, preparation of the report by this review team would be permissible.

The advisory report does not have to be completed between apprehension and the initial court hearing. The advisory report is only required prior to commitment to a secure facility as a disposition, viz., post adjudication. While the report is not binding on the court, it is intended as an additional, objective source of information upon which the court can base its case planning and decision making. As such, Congress intended the report to ''influence'' judicial actions with respect to status offenders adjudicated for violating a VCO.

OJJDP disagrees with the comment that the VCO process is so restrictive that it is impossible to securely detain accused or adjudicated VCO violators. Those portions of the existing regulation that specifically address the detention of VCO violators have not been changed. The changes being made implement amendments to the JJDP Act that require due process protections from the very beginning of the VCO process, and an advisory report prior to a dispositional commitment to a secure facility. The 1992 Amendments to the JJDP Act reflect Congressional concern about the possible overuse of the VCO exception in order to incarcerate status offenders and circumvent the deinstitutionalization of status offenders provision of the JJDP Act.

Regarding status offenders charged with contempt of court for behavior that would result in the same charge for an adult, OJJDP agrees that this is not a status offense. If, however, the court is using a contempt process in place of the VCO violation process, OJJDP and the State would look to see that all of the VCO requirements had been met before allowing the VCO exception.

Where allowable under State law, adjudicated delinquents that abscond from secure treatment facilities could be held in a juvenile detention center without new charges, and without violating the JJDP Act. In response to the comment about legal counsel, it is noted that the current formula grants regulation requires legal counsel for youth in VCO cases.

5. Comment: Status offenders in jails and lockups already violate jail and lockup removal, and therefore, this should not be counted as a violation of DSO. The respondent also assumed that this did not effect VCO detentions.

Response: Under current regulations, a status offender or nonoffender securely detained in a jail or lockup for less than twenty four hours would violate the jail and lockup removal provision of the JJDP Act, but not the DSO provision. This conflict in the regulations (issued at different points in time) is not acceptable. It is the position of Congress and OJJDP, that there is no excusable reason for securely detaining juveniles in a jail or lockup, who are not being charged with a criminal offense.

Status offenders accused of, or adjudicated for violating a VCO, remain status offenders under OJJDP regulations, and therefore can not be securely detained in jails and lockups.

6. Comment: A respondent expressed concern over the sound separation standard. Specifically, the ''no conversation possible'' standard was criticized as being too vague. Respondent suggested that sound separation be expanded to mean ''any communication from incarcerated adults.'' Further, it was recommended that the regulation should explicitly indicate that haphazard and accidental contact are no longer permissible.

Response: The final regulation will indicate that sound contact means any oral communication between incarcerated adults and juveniles. In response to the 1992 Amendments of the JJDP Act, ''haphazard and accidental'' contact were deleted from the proposed formula grants regulation. OJJDP believes this deletion to be sufficient.

7. Comment: Two respondents questioned the total amount of time allowed for the new distance/lack of ground transportation portion of the rural area (non-MSA) exception to jail and lockup removal. Specifically, one respondent recommended that ''distance'' be defined as three hours by automobile, and that the total period of incarceration be limited to seventy two hours. This recommendation allows for the original twenty four hours grace period plus the new forty eight hours period provided by Congress, but would not then recognize weekends and holidays as currently allowed for in the statute. The other respondent asserted that the total period of incarceration under the distance/lack of ground transportation provision should not exceed forty eight hours. A recommendation was also made that the regulation require youth specific admissions screening in connection with use of the non-MSA exception, and that continuous visual supervision be provided by a trained person.

Response: OJJDP stands by its interpretation of the statute to mean forty eight hours *in addition* to the first twenty four hours ''grace period.'' Because the statute excludes weekends and holidays, the total time may exceed seventy two hours. States are reminded, however, that each use of the expanded rural area exception must be carefully documented. OJJDP concurs with the comment on youth-specific admissions screening, but this will be added to the final regulation as a recommended practice, not a requirement. The existing regulation addresses continuous visual supervision as a recommended practice.

8. Comment: Respondents questioned the proposal to increase the number of waivers from three to four, for failure to achieve full compliance with jail and lockup removal. Opposition was also expressed toward revising the existing criteria used by OJJDP to assess waiver requests. Specifically, respondents disagreed with the proposal to modify the waiver criterion related to the removal of status and nonoffenders from adult jails and lockups.

Response: There is only one State that is possibly in need of another (fourth) waiver in order to access FY 1993 formula grant funds. Starting with FY 1994 formula grant funds, there is no longer a waiver provision for failure to achieve full compliance with jail and lockup removal.

A preliminary review of the subject State's situation suggests that, if a fourth waiver is needed, the waiver criteria could be complied with. If a fourth waiver is needed and justified for this State, it will be granted in the discretion of the Administrator. The waiver provision of the criteria in the existing regulation are being deleted, as they are no longer applicable.

9. Comment: The 1992 Amendments to the JJDP Act restructure State's eligibility for formula grant funds, such that each of the four major mandates is associated with twenty five percent of the grant. As amended, the Act also requires States receiving reduced allocations for noncompliance to expend all remaining funds to achieve compliance, absent a waiver of this requirement from the Administrator. One respondent questioned the ability of States to adequately address the mandates if all funds must be expended on one noncompliant mandate. Another respondent asked OJJDP to clearly delineate the criteria to be used in assessing States' requests for a waiver from the requirement to expend all

funds to achieve compliance with the noncompliant mandate(s), viz., how will OJJDP determine if a State has achieved substantial compliance.

Response: The concern about States' ability to maintain compliance with all of the major mandates when funds must be focused on one noncompliant mandate, is contemplated by the statutory scheme established by Section 223(c)(3)(B)(ii) of the JJDP Act. A waiver of the dedicated funding provision can be granted if the State has achieved substantial compliance with the mandate(s) for which funding was reduced. In addition, the State must have an unequivocal commitment to achieving full compliance with the noncompliant mandate. The final regulation sets forth specific criteria for determining whether a State has achieved substantial compliance want OJJDP to continue the practice.

10. Comments: The proposed regulation reflected the statutory amendment requiring totally separate staff for juvenile detention facilities collocated with adult jails and lockups. In addition, OJJDP proposed eventually ending the practice of concurring with State classifications and approval of juvenile detention facilities located in the same building as adult jails and lockups. Several national organizations responded in support of the proposed regulation's position on collocated facilities. The basis for this support is that the existing criteria for collocated facilities, even when fully implemented, do not ensure adequate protection and services for juveniles. In the opinion of these organizations, the existing criteria do not result in jail and lockup removal.

A number of States on the other hand, argued that the existing criteria are adequate, the burgeoning juvenile detention populations necessitate that as many options as possible be available, and that it is essential for States and local units of government to retain their discretion in juvenile detention planning and operations.

Response: The final regulation attempts to balance the interests presented on the collocated facility issue during the public comment period. Specifically, OJJDP will work with the States to implement a three-prong approach to collocated facilities that is consistent with Section 223(a), Paragraphs (13) and (14) of the JJDP Act. The first prong involves a formal assessment of detention needs in a particular jurisdiction or region prior to moving ahead with the approval process for a collocated facility.

OJJDP's technical assistance provider will work with jurisdictions interested in a collocated facility to collect and analyze the necessary information for sound juvenile detention services planning. The second prong involves strengthened regulatory criteria for States and OJJDP to use in the approval and concurrence processes, respectively. Specifically, OJJDP will return to its original (1984) standard of not permitting time-phased use of spatial areas in collocated juvenile and adult facilities and will fully implement the 1992 Amendment to the JJDP Act requiring totally separate staff for juvenile detainees. The third prong consists of a requirement that approved collocated facilities receive an annual on-site visit by the State Formula Grant Agency. The purpose of the visit is to reassess the facility's compliance with the collocated criteria, and to revisit the need to collocate facilities in the jurisdiction or region.

Issues Not Addressed by Public Comments

1. Deadline for Monitoring Reports—The current regulation says December 31st of each year. Timely submission of State monitoring reports will be tied to State eligibility for reverted funds, as is the case with formula grant plans and performance reports.

2. The JJDP Act says the State advisory group ''shall'' consist of * * * and the proposed regulation says ''should consider.'' The final regulation will reflect this correction.

3. Youth Handgun Safety Act—The Violent Crime Control and Law Enforcement Act of 1994 amended the DSO provision of the JJDP Act to exclude juveniles charged with handgun possession. This occurred after publication of the proposed regulation. The final regulation will reflect this change in the definition of status offender.

Executive Order 12866

This final regulation is not a ''significant regulatory action'' for purposes of Executive Order 12866 because it does not result in: (1) an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; and (4) does not raise novel legal or policy issues arising out of legal mandates, the President's priorities or the principles of Executive Order 12866.

Regulatory Flexibility Act

This final regulation, does not have a ''significant'' economic impact on a substantial number of small ''entities'', as defined by the Regulatory Flexibility Act (Pub. L. 96–354).

Paperwork Reduction Act

No collection of information requirements are contained in or effected by this regulation (See the Paperwork Reduction Act, 44 U.S.C. 3504(h)).

Intergovernmental Review of Federal Programs

In accordance with Executive Order 12372 and the Department of Justice's implementing regulation 28 CFR Part 31, States must submit formula grant applications to the State ''Single Point of Contact,'' if one exists. The State may take up to sixty days from the application date to comment on the application.

List of Subjects in 28 CFR Part 31

Grant programs—law, Juvenile delinquency, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the OJJDP Formula Grants Regulation, 28 CFR Part 31, is amended as follows:

PART 31—[AMENDED]

1. The authority citation for Part 31 is revised to read as follows:

Authority: 42 U.S.C. 5601 *et seq.*

2. Section 31.3 is revised to read as follows:

§ 31.3 Formula Grant Plans and Applications.

Formula Grant Applications for each fiscal year should be submitted to OJJDP by August 1 (sixty days prior to the beginning of the fiscal year) or within sixty days after the States are officially notified of the fiscal year formula grant allocations. Beginning with FY 1995 and each subsequent fiscal year, all Formula Grant Applications must be submitted no later than March 31 of the fiscal year for which the funds are allocated.

3. Section 31.101 is revised to read as follows:

§ 31.101 Designation of State agency.

The Chief Executive of each State which chooses to apply for a formula grant shall establish or designate a State agency as the sole agency for supervising the preparation and

administration of the plan. The plan must demonstrate compliance with administrative and supervisory board membership requirements established by the OJJDP Administrator pursuant to Section 299(c) of the JJDP Act. States must have available for review a copy of the State law or executive order establishing the State agency and its authority

4. Section 31.102 is amended by adding two sentences at the end of paragraph (c) to read as follows:

§ 31.102 State agency structure.

* * * * *

(c) * * * At a minimum, one full-time Juvenile Justice Specialist must be assigned to the Formula Grants Program by the State agency. Where the State does not currently provide or maintain a full-time Juvenile Justice Specialist, the plan must clearly establish and document that the program and administrative support staff resources currently assigned to the program will temporarily meet the adequate staff requirement, and provide an assurance that at least one full-time Juvenile Justice Specialist will be assigned to the Formula Grants Program by the end of FY 1995 (September 30, 1995).

5. Section 31.203 is revised to read as follows:

§ 31.203 Open meetings and public access to records.

The State must assure that the State agency, its supervisory board established pursuant to Section 299(c) and the State advisory group established pursuant to Section 223(a)(3) will follow applicable State open meeting and public access laws and regulations in the conduct of meetings and maintenance of records relating to their functions.

6. Section 31.301 is amended by revising paragraphs (a), (c), (d), and (e) to read as follows:

§ 31.301 Funding.

(a) *Allocation to States*. Funds shall be allocated annually among the States on the basis of relative population of persons under age eighteen. If the amount allocated for Title II (other than Parts D and E) of the JJDP Act is less than $75 million, the amount allocated to each State will not be less than $325,000, nor more than $400,000, provided that no State receives less than its allocation for FY 1992. The territories will receive not less than $75,000 or more than $100,000. If the amount appropriated for Title II (other than Parts D and E) is $75 million or more, the amount allocated for each State will be not less than $400,000, nor more than $600,000, provided that Parts D and E have been funded in the full amounts authorized. For the Territories, the amount is fixed at $100,000. For each of FY's 1994 and 1995, the minimum allocation is established at $600,000 for States and $100,000 for Territories.

* * * * *

(c) *Match*. Formula Grants under the JJDP Act shall be 100% of approved costs, with the exception of planning and administration funds, which require a 100 percent cash match (dollar for dollar), and construction projects funded under Section 299C(a)(2) of the JJDP Act which also require a 100 percent cash match.

(d) *Funds for administration*. Not more than ten percent of the total annual Formula Grant award may be utilized to develop the annual juvenile justice plan and pay for administrative expenses, including project monitoring. These funds are to be matched on a dollar for dollar basis. The State shall make available needed funds for planning and administration to units of local government on an equitable basis. Each annual application must identify uses of such funds.

(e) *Nonparticipating States*. Pursuant to Section 223(d), the OJJDP Administrator shall endeavor to make the fund allotment under Section 222(a), of a State which chooses not to participate or loses its eligibility to participate in the formula grant program, directly available to local public and private nonprofit agencies within the nonparticipating State. The funds may be used only for the purpose(s) of achieving deinstitutionalization of status offenders and nonoffenders, separation of juveniles from incarcerated adults, removal of juveniles from adult jails and lockups, and/or reducing the disproportionate confinement of minority youth in secure facilities. Absent a request for extension which demonstrates compelling circumstances justifying the reallocation of formula grant funds back to the State to which the funds were initially allocated, or the proceedings under Section 223(d), formula grant funds allocated to a State which has failed to submit an application, plan, or monitoring data establishing its eligibility for the funds will, beginning with FY 1994, be reallocated to the nonparticipating State program on September 30 of the fiscal year for which the funds were appropriated. Reallocated funds will be awarded to eligible recipients pursuant to program announcements published in the **Federal Register**.

7. Section 31.302 is amended by revising paragraphs (a) and (b)(2) to read as follows:

§ 31.302 Applicant State agency.

(a) Pursuant to Section 223(a)(1), Section 223(a)(2) and Section 299(c) of the JJDP Act, the State must assure that the State agency approved under Section 299(c) has been designated as the sole agency for supervising the preparation and administration of the plan and has the authority to implement the plan.

(b) * * *

(2) Shall consider in meeting the statutory membership requirements and responsibilities of Section 223(a)(3) (A)–(E), appointing at least one member who represents each of the following: a locally elected official representing general purpose local government; a law enforcement officer; a juvenile or family court judge; a probation officer; a juvenile corrections official; a prosecutor; a person who routinely provides legal representation to youth in juvenile court; a representative from an organization, such as a parents group, concerned with teenage drug and alcohol abuse; a high school principal; a recreation director; a volunteer who works with delinquent or at risk youth; a person with a special focus on the family; a youth worker experienced with programs that offer alternatives to incarceration; persons with special competence in addressing programs of school violence and vandalism and alternatives to expulsion and suspension; and persons with knowledge concerning learning disabilities, child abuse, neglect and youth violence.

* * * * *

8. Section 31.303 is amended by revising paragraphs (a) and (b) to read as follows:

§ 31.303 Substantive requirements.

(a) *Assurances*. The State must certify through the provision of assurances that it has complied and will comply (as appropriate) with Sections 223(a) (1), (2), (3), (4), (5), (6), (7), (8)(c), (9), (10), (11), (16), (17), (18), (19), (20), (21), (22), and (25), and Sections 229 and 261(d), in formulating and implementing the State plan. The Formula Grant Application kit provides a form and guidance for the provision of assurances. OJJDP interprets the Section 223(a)(16) assurance as satisfied by an affirmation that State law and/or policy clearly require equitable treatment on the required bases; or by providing in the State plan that the State agency will require an assurance of equitable treatment by all Formula Grant subgrant

and contract recipients, and establish as a program goal, in conjunction with the State Advisory Group, the adoption and implementation of a statewide juvenile justice policy that all youth in the juvenile justice system will be treated equitably without regard to gender, race, family income, and mentally, emotionally, or physically handicapping conditions. OJJDP interprets the Section 223(a)(25) assurance as satisfied by a provision in the State plan for the State agency and the State Advisory Group to promulgate policies and budget priorities that require the funding of programs that are part of a comprehensive and coordinated community system of services as set forth in Section 103(19) of the JJDP Act. This requirement is applicable when a State's formula grant for any fiscal year exceeds 105 percent of the State's formula grant for FY 1992.

(b) *Serious juvenile offender emphasis.* Pursuant to Sections 101(a)(10) and 223(a)(10) of the JJDP Act, OJJDP encourages States that have identified serious and violent juvenile offenders as a priority problem to allocate formula grant funds to programs designed for serious and violent juvenile offenders at a level consistent with the extent of the problem as identified through the State planning process. Particular attention should be given to improving prosecution, sentencing procedures, providing resources necessary for effective rehabilitation, and facilitating the coordination of services between the juvenile justice and criminal justice systems.

* * * * *

§ 31.303 [Amended]

9. Section 31.303 is amended by revising paragraph (c)(3) to read as follows:

* * * * *

(c) * * *

(3) *Federal wards.* Apply this requirement to alien juveniles under Federal jurisdiction who are held in State or local facilities.

* * * * *

10. Section 31.303 is amended by revising paragraph (c)(4) to read as follows:

* * * * *

(c) * * *

(4) *DSO compliance.* Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with Section 223(a)(12)(A) may, in lieu of addressing paragraphs (c) (1) and (2) of this section, provide an assurance that adequate plans and resources are available to maintain full compliance.

* * * * *

11. Section 31.303 is amended by revising paragraphs (d)(1) (i) and (ii) to read as follows:

* * * * *

(d) * * *

(1) * * *

(i) *Separation.* Describe its plan and procedure, covering the three-year planning cycle, for assuring that the requirements of this section are met. The term ''contact'' is defined to include any sight and sound contact between juveniles in a secure custody status and incarcerated adults, including inmate trustees. Sound contact is further defined to mean no oral communication between incarcerated adults and juveniles. Separation must be accomplished in all secure areas of the facility which include, but are not limited to: sallyports within the secure perimeter of the facility, other entry areas, all passageways (hallways), admissions, sleeping, toilet and shower, dining, recreational, educational, vocational, health care, and other areas as appropriate.

(ii) In those instances where accused juvenile criminal-type offenders are authorized to be temporarily detained in facilities where adults are confined, the State must set forth the procedures for assuring no sight or sound contact between such juveniles and confined adults.

* * * * *

12. Paragraph (d)(2) of § 31.303 is revised to read as follows:

* * * * *

(d)* * *

(2) *Implementation.* The requirement of this provision is to be planned and implemented immediately by each State.

* * * * *

13. Paragraph (e)(3) in § 31.303 is revised to read as follows:

* * * * *

(e)* * *

(3) *Collocated facilities.* (i) Determine whether or not a facility in which juveniles are detained or confined is an adult jail or lockup. The JJDP Act prohibits the secure custody of juveniles in adult jails and lockups. Juvenile facilities collocated with adult facilities are not considered adult jails or lockups when the criteria set forth in paragraph (e)(3)(i)(D) of this section are complied with.

(A) A collocated facility is a juvenile facility located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered ''related'' when it shares physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer), or those that are allowable under paragraph (e)(3)(i)(C) of this section.

(B) The State, with OJJDP concurrence must determine whether a collocated facility qualifies as a separate juvenile detention facility under the four criteria set forth in Paragraph (e)(3)(i)(D) of this section for the purpose of monitoring compliance with Section 223(a), Paragraphs 12(A), (13) and (14) of the JJDP Act.

(C) A needs based analysis must precede a jurisdiction's request for State approval, and OJJDP concurrence that a collocated facility qualifies as a juvenile detention facility. Specifically, consideration should be given to such factors as excessive travel time to an existing juvenile detention center; crowding in an existing facility (despite the use of objective detention criteria); and in areas where there are no juvenile detention facilities, a measurable increase in the need for juvenile detention beds. This list is not considered exhaustive. OJJDP's technical assistance provider to the States should be involved in the needs based analysis (without cost to the State or local jurisdiction). The needs based analysis must take into consideration and be coordinated with the State's plans and efforts toward a continuum of detention services for juvenile offenders.

(D) Each of the following four criteria must be met in order to ensure the requisite separateness of the two facilities:

(*1*) Total separation between juvenile and adult facility spatial areas such that there could be no sight or sound contact between juveniles and incarcerated adults in the facility. Total separation of spatial areas can be achieved architecturally, and must provide for no common use areas (time-phasing is not permissible).

(*2*) Total separation in all juvenile and adult program areas, including recreation, education, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention center which provides for a full range of separate program services. No program activities may be shared by juveniles and incarcerated adults. However, equipment and other resources may be used by both populations subject to security concerns

and the criterion in paragraph (e)(3)(i)(A) of this section.

(*3*) Separate staff for the juvenile and adult populations, including management, security staff, and direct care staff. Specialized services staff who are not normally in contact with detainees, or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both populations, subject to State standards or licensing requirements. The day to day management, security and direct care functions of the juvenile detention center must be vested in a totally separate staff, dedicated solely to the juvenile population.

(*4*) In States that have established standards or licensing requirements for juvenile detention facilities, the juvenile facility must meet the standards (on the same basis as a free-standing juvenile detention center) and be licensed as appropriate. If there are no State standards or licensing requirements, then the jurisdiction must cooperate in a preapproval review of its physical plant, staffing patterns, and programs by an organization selected and compensated by OJJDP. This review will be based on prevailing national juvenile detention standards, and will inform the State's approval process and concurrence by OJJDP.

(ii) The State must initially determine that the four criteria are fully met. Upon such determination, the State must submit to OJJDP a request for concurrence with the State finding that a separate juvenile detention facility exists. To enable OJJDP to assess the separateness of the two facilities, sufficient documentation must accompany the request to demonstrate that each criterion has been met. It is incumbent upon the State to make the initial determination through an on-site facility (or full plan) review and, through the exercise of its oversight responsibility, to ensure that the separate character of the juvenile facility is maintained by continuing to fully meet the four criteria set forth in paragraph (e)(3)(i)(D) of this section.

(iii) Collocated juvenile detention facilities approved by the State and concurred with by OJJDP on or before March 31, 1995 are to be reviewed against the regulatory criteria and OJJDP policies in effect at the time of the initial approval and concurrence, except that all collocated facilities are subject to the separate staff requirement established by the 1992 Amendments to the JJDP Act, and set forth in paragraph (e)(3)(i)(C) of this section. Unless otherwise indicated, review of previously approved collocated facilities is expected to occur as part of the State's regularly scheduled monitoring activities.

(iv) OJJDP's concurrence on facilities considered after March 31, 1995 is limited to one year and thereafter, on an annual basis. An on-site review of the facility must be conducted by the compliance monitoring staff person(s) in the State agency administering the JJDP Act Formula Grants Program. OJJDP's concurrence is required annually, and may involve on-site review by OJJDP staff. The purpose of the annual review is to determine if compliance with the criteria set forth in paragraphs (e)(3)(i)(A) through (D) of this section is being maintained, and to assess the continuing need for the collocated facility and the jurisdiction's long term plan to move to a free-standing facility (single jurisdiction or regional) or other detention alternatives unless the juvenile detention center is part of a justice center, in which case the annual review will look solely at the four regulatory criteria. An example of a justice center is a building or a set of buildings in which various agencies are housed, such as law enforcement, courts, State's attorneys, public defenders, and probation, in addition to an adult jail or lockup, and a juvenile detention facility.

(v) In order to receive OJJDP's initial and any subsequent concurrences, a juvenile detention facility approved after March 31, 1995 must, pursuant to a written policy and procedure, only provide secure custody for juvenile criminal-type offenders; status offenders accused of violating a VCO; and adjudicated delinquents and VCO violators who are awaiting disposition hearings or transfer to a long term juvenile correctional facility.

* * * * *

14. Paragraph (e)(4) in § 31.303 is removed and paragraph (e)(5) is redesignated as paragraph (e)(4) and revised to read as follows:

* * * * *

(e) * * *

(4) *Jail removal compliance.* Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with Section 223(a)(14) may, in lieu of addressing paragraphs (e)(1) and (2) of this section, provide an assurance that adequate plans and resources are available to maintain full compliance.

* * * * *

15. Paragraph (f)(3)(i) in § 31.303 is amended by adding a sentence to the end of the paragraph to read as follows:

* * * * *

(f) * * *

(3) * * *

(i) * * * Prior to issuance of the order, the juvenile must have received the full due process rights guaranteed by the Constitution of the United States.

* * * * *

16. Paragraph (f)(3)(iv) in § 31.303 is amended by revising the last sentence to read as follows:

* * * * *

(f) * * *

(3) * * *

(iv) * * * A juvenile alleged or found in a violation hearing to have violated a Valid Court Order may be held only in a secure juvenile detention or correctional facility, and not in an adult jail or lockup.

* * * * *

17. Paragraph (f)(3)(vi) in § 31.303 is amended by adding three sentences to the end of the paragraph to read as follows:

* * * * *

(f) * * *

(3) * * *

(vi) * * * This determination must be preceded by a written report to the judge that: reviews the behavior of the juvenile and the circumstances under which the juvenile was brought before the court and made subject to such order; determines the reasons for the juvenile's behavior; and determines whether all dispositions other than secure confinement have been exhausted or are clearly inappropriate. This report must be prepared and submitted by an appropriate public agency (other than a court or law enforcement agency). A multidisciplinary review team that operates independently of courts or law enforcement agencies would satisfy this requirement even if some individual members of the team represent court or law enforcement agencies.

* * * * *

18. Paragraph (f)(4)(v) in § 31.303 is amended by revising the last sentence to read as follows:

* * * * *

(f) * * *

(4) * * *

(v) * * * OJJDP strongly recommends that jails and lockups that incarcerate juveniles be required to provide youth specific admissions screening and continuous visual supervision of juveniles incarcerated pursuant to this exception.

* * * * *

19. Paragraph (f)(4)(vi) in § 31.303 is revised to read as follows:

* * * * *

(f) * * *

(4) * * *

(vi) Pursuant to Section 223(a)(14) of the JJDP Act, the non-MSA (low population density) exception to the jail and lockup removal requirements as described in paragraphs (f)(4) (i) through (v) of this section shall remain in effect through 1997, and shall allow for secure custody beyond the twenty four hours period described in paragraph (f)(4)(i) of this section when the facility is located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within twenty four hours, so that a brief (not to exceed an additional forty eight hours) delay is excusable; or the facility is located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until twenty four hours after the time that such conditions allow for reasonably safe travel. States may use these additional statutory allowances only where the precedent requirements set forth in paragraphs (f)(4) (i) through (v) of this section have been complied with. This may necessitate statutory or judicial (court rule or opinion) relief within the State from the twenty four hours initial court appearance standard required by paragraph (f)(4)(i) of this section. States must document and describe in their annual monitoring report to OJJDP, the specific circumstances surrounding each individual use of the distance/ ground transportation, and weather allowances.

* * * * *

20. Paragraph (f)(5) in § 31.303 is revised to read as follows:

* * * * *

(f) * * *

(5) *Reporting requirement.* The State shall report annually to the Administrator of OJJDP on the results of monitoring for Section 223(a) (12), (13), and (14) of the JJDP Act. The reporting period should provide 12 months of data, but shall not be less than six months. The report shall be submitted to the Administrator of OJJDP by December 31 of each year.

(i) To demonstrate compliance with Section 223(a)(12)(A) of the JJDP Act, the report must include, at a minimum, the following information for the current reporting period:

(A) dates covered by the current reporting period;

(B) total number of public and private secure detention and correctional facilities, the total number reporting, and the number inspected on-site;

(C) the total number of accused status offenders and nonoffenders, including out-of-state runaways and Federal wards, held in any secure detention or correctional facility for longer than twenty four hours (not including weekends or holidays), excluding those held pursuant to the VCO provision as set forth in paragraph (f)(3) of this section or pursuant to Section 922(x) of Title 18 United States Code Section or a similar State law;

(D) the total number of accused status offenders and nonoffenders, including out-of-state runaways and Federal wards, (excluding juveniles held for VCO violations and Title 18 U.S.C. Section 922(x) violators) held in any secure detention or correctional facility for less than twenty four hours for purposes other than identification, investigation, release to parent(s), or transfer to a nonsecure facility;

(E) the total number of accused status offenders (including VCO violators but excluding 922(x) violators) and nonoffenders securely detained in any adult jail, lockup, or nonapproved collocated facility for less than twenty four hours;

(F) the total number of adjudicated status offenders and nonoffenders, including out-of-state runaways and Federal wards, held for any length of time in a secure detention or correctional facility, excluding those held pursuant to the VCO provision or pursuant to Title 18 U.S.C. Section 922(x);

(G) the total number of status offenders held in any secure detention or correctional facility pursuant to the VCO provision set forth in paragraph (f)(3) of this section or Title 18 U.S.C. Section 922(x) violators; and

(H) the total number of juvenile offenders held pursuant to Title 18 U.S.C. Section 922(x).

(ii) To demonstrate the extent to which the provisions of Section 223(a)(12)(B) of the JJDP Act are being met, the report must include the total number of accused and adjudicated status offenders and nonoffenders placed in facilities that are:

(A) Not near their home community;

(B) Not the least restrictive appropriate alternative; and

(C) Not community-based.

(iii) To demonstrate the extent of compliance with Section 223(a)(13) of the JJDP Act, the report must include, at a minimum, the following information for the current reporting period:

(A) Dates covered by the current reporting period;

(B) The total number of facilities used to detain or confine both juvenile offenders and adult criminal offenders during the past twelve months and the number inspected on-site;

(C) The total number of facilities used for secure detention and confinement of both juvenile offenders and adult criminal offenders which did not provide sight and sound separation;

(D) The total number of juvenile offenders and nonoffenders NOT separated in facilities used for the secure detention and confinement of both juveniles and adults;

(E) The total number of juvenile detention centers located within the same building or on the same grounds as an adult jail or lockup that have been concurred with by OJJDP, including a list of such facilities;

(F) The total number of juveniles detained in collocated facilities concurred with by OJJDP that were not separated from the security or direct care staff of the adult portion of the facility;

(G) The total number of juvenile detention centers located within the same building or on the same grounds as an adult jail or lockup that have not been concurred with by OJJDP, including a list of such facilities; and

(H) The total number of juveniles detained in collocated facilities not approved by the State and concurred with by OJJDP, that were not sight and sound separated from adult criminal offenders.

(iv) To demonstrate the extent of compliance with Section 223(a)(14) of the JJDP Act, the report must include, at a minimum, the following information for the current reporting period:

(A) Dates covered by the current reporting period;

(B) The total number of adult jails in the State AND the number inspected on-site;

(C) The total number of adult lockups in the State AND the number inspected on-site;

(D) The total number of adult jails holding juveniles during the past twelve months;

(E) The total number of adult lockups holding juveniles during the past twelve months;

(F) The total number of accused juvenile criminal-type offenders held securely in adult jails, lockups, and collocated facilities not concurred with by OJJDP, in excess of six hours (including those held pursuant to the ''removal exception'' as set forth in paragraph (f)(4) of this Section);

(G) The total number of accused juvenile criminal-type offenders held securely in adult jails and lockups (including collocated facilities not concurred with by OJJDP) for less than six hours for purposes other than

identification, investigation, processing, release to parent(s), or transfer to a juvenile facility;

(H) The total number of adjudicated juvenile criminal-type offenders held securely in adult jails or lockups (including collocated facilities not concurred with by OJJDP) for any length of time;

(I) The total number of accused and adjudicated status offenders (including VCO violators) and nonoffenders held securely in adult jails, lockups and collocated facilities not approved by the State and concurred with by OJJDP, for any length of time;

(J) The total number of adult jails, lockups, and collocated facilities not concurred with by OJJDP, in areas meeting the ''removal exception'' as noted in paragraph (f)(4) of this section, including a list of such facilities and the county or jurisdiction in which each is located;

(K) The total number of juveniles accused of a criminal-type offense who were held in excess of six hours but less than twenty four hours in adult jails or lockups (including collocated facilities not approved by the State and concurred with by OJJDP) pursuant to the ''removal exception'' as set forth in paragraph (f)(4) of this section;

(L) The total number of juveniles accused of a criminal-type offense who were held in excess of twenty four hours but no more than an additional forty eight hours in adult jails or lockups (including collocated facilities not approved by the State and concurred with by OJJDP) pursuant to the ''removal exception'' as noted in paragraph (f)(4) of this section, due to conditions of distance or lack of ground transportation; and

(M) The total number of juveniles accused of a criminal-type offense who were held in excess of twenty four hours, but no more than an additional twenty four hours after the time such conditions allow for reasonably safe travel, in adult jails, lockups and collocated facilities not concurred with by OJJDP, in areas meeting the ''removal exception'' as noted in paragraph (f)(4) of this section, due to adverse weather conditions.

* * * * *

21. Paragraph (f)(6) introductory text in § 31.303 is revised to read as follows:

* * * * *

(f) * * *

(6) *Compliance.* The State must demonstrate the extent to which the requirements of Sections 223(a)(12)(A), (13), (14), and (23) of the Act are met. If the State fails to demonstrate full compliance with Sections 223(a)(12)(A) and (14), and compliance with Sections 223(a)(13) and (23) by the end of the fiscal year for any fiscal year beginning with 1994, the State's allotment under Section 222 will be reduced by twenty five percent for each such failure, provided that the State will lose its eligibility for any allotment unless: the State agrees to expend all remaining funds (except planning and administration, State advisory group set-aside funds and Indian tribe pass-through funds) for the purpose of achieving compliance with the mandate(s) for which the State is in noncompliance; or the Administrator makes discretionary determination that the State has substantially complied with the mandate(s) for which there is noncompliance and that the State has made through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time. In order for a determination to be made that a State has substantially complied with the mandate(s), the State must demonstrate that it has: Diligently carried out the plan approved by OJJDP; demonstrated significant progress toward full compliance; submitted a plan based on an assessment of current barriers to DMC; and provided an assurance that added resources will be expended, be it formula grants or other funds to achieve compliance. Where a State's allocation is reduced, the amount available for planning and administration and the required pass-through allocation, other than State advisory group set-aside, will be reduced because they are based on the reduced allocation.

* * * * *

22. Paragraph (f)(6)(i) in Section 31.303 is revised to read as follows:

* * * * *

(f) * * *

(6) * * *

(i) Substantial compliance with Section 223(a)(12)(A) can be used to demonstrate eligibility for FY 1993 and prior year formula grant allocations if, within three years of initial plan submission, the State has achieved a seventy five percent reduction in the aggregate number of status offenders and nonoffenders held in secure detention or correctional facilities, or removal of 100 percent of such juveniles from secure correctional facilities only. In addition, the State must make an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance by FY 1994. Full compliance is achieved when a State has removed 100 percent of such juveniles from secure detention and correctional facilities or can demonstrate full compliance with de minimis exceptions pursuant to the policy criteria published in the **Federal Register** of January 9, 1981. (Available from the Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531.)

* * * * *

23. Paragraph (f)(6)(iii)(A) in § 31.303 is removed and paragraphs (f)(6)(iii) (B), (C), (D), and (E) are redesignated as paragraphs (f)(6)(iii) (A), (B), (C), and (D), respectively.

24. Paragraph (f)(7) in Section 31.303 is revised to read as follows:

* * * * *

(f) * * *

(7) *Monitoring report exemptions.* States which have been determined by the OJJDP Administrator to have achieved full compliance with Sections 223 (a)(12)(A), (a)(14), and compliance with Section 223(a)(13) of the JJDP Act and wish to be exempted from the annual monitoring report requirements must submit a written request to the OJJDP Administrator which demonstrates that:

(i) The State provides for an adequate system of monitoring jails, law enforcement lockups, detention facilities, to enable an annual determination of State compliance with Sections 223(a) (12)(A), (13), and (14) of the JJDP Act;

(ii) State legislation has been enacted which conforms to the requirements of Sections 223(a) (12)(A), (13), and (14) of the JJDP Act; and

(iii) The enforcement of the legislation is statutorily or administratively prescribed, specifically providing that:

(A) Authority for enforcement of the statute is assigned;

(B) Time frames for monitoring compliance with the statute are specified; and

(C) Adequate procedures are set forth for enforcement of the statute and the imposition of sanctions for violations.

* * * * *

25. Paragraph (g) introductory text in Section 31.303 is revised to read as follows:

* * * * *

(g) *Juvenile crime analysis.* Pursuant to Section 223(a)(8), the State must conduct an analysis of juvenile crime problems, including juvenile gangs that commit crimes, and juvenile justice and delinquency prevention needs within the State, including those geographical areas in which an Indian tribe performs law enforcement functions. The analysis and needs assessment must include educational needs, gender specific services, delinquency prevention and

treatment services in rural areas, and mental health services available to juveniles in the juvenile justice system. The analysis should discuss barriers to accessing services and provide a plan to provide such services where needed.

* * * * *

26. Paragraph (h) in § 31.303 is amended by adding a sentence at the end of the paragraph to read as follows:

* * * * *

(h) * * * The annual performance report must be submitted to OJJDP no later than June 30 and address all formula grant activities carried out during the previous complete calendar year, federal fiscal year, or State fiscal year for which information is available, regardless of which year's formula grant funds were used to support the activities being reported on, e.g., during a reporting period, activities may have been funded from two or more formula grant awards.

* * * * *

27. Paragraph (j) in § 31.303 is revised to read as follows:

* * * * *

(j) *Minority detention and confinement.* Pursuant to Section 223(a)(23) of the JJDP Act, States must demonstrate specific efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population, viz., in most States, youth between ages ten-seventeen are subject to secure custody. It is essential that States approach this statutory mandate in a comprehensive manner. Compliance with this provision is achieved when a State meets the requirements set forth in paragraphs (j)(1) through (3) of this section:

(1) *Identification.* Provide quantifiable documentation (State, county and local level) in the State's FY 1994 Formula Grant Plan (and all subsequent Multi-Year Plans) Juvenile Crime Analysis and Needs assessment to determine whether minority juveniles are disproportionately detained or confined in secure detention and correctional facilities, jails and lockups in relation to their proportion of the State juvenile population. Guidelines are provided in the OJJDP Disproportionate Minority Confinement Technical Assistance Manual (see Phase I Matrix). (Available from the Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531.) Where quantifiable documentation is not available to determine if disproportionate minority confinement exists in secure detention and correctional facilities, jails and lockups, the State must provide a time-limited plan of action, not to exceed six months, for developing and implementing a system for the ongoing collection, analysis and dissemination of information regarding minorities for those facilities where documentation does not exist.

(2) *Assessment.* Each State's FY 1994 Formula Grant Plan must provide a completed assessment of disproportionate minority confinement. Assessments must, at minimum, identify and explain differences in arrest, diversion and adjudication rates, court dispositions other than incarceration, the rates and periods of prehearing detention in and dispositional commitments to secure facilities of minority youth in the juvenile justice system, and transfers to adult court (see Phase II Matrix). If a completed assessment is not available, the State must submit a time-limited plan (not to exceed twelve months from submission of the Formula Grant Application) for completing the assessment.

(3) *Intervention.* Each State's FY 1995 Formula Grant Plan must, where disproportionate confinement has been demonstrated, provide a time-limited plan of action for reducing the disproportionate confinement of minority juveniles in secure facilities. The intervention plan shall be based on the results of the assessment, and must include, but not be limited to the following:

(i) *Diversion.* Increasing the availability and improving the quality of diversion programs for minorities who come in contact with the juvenile justice system, such as police diversion programs;

(ii) *Prevention.* Providing developmental, operational, and assessment assistance (financial and/or technical) for prevention programs in communities with a high percentage of minority residents with emphasis upon support for community-based organizations (including non-traditional organizations) that serve minority youth;

(iii) *Reintegration.* Providing developmental, operational, and assessment assistance (financial and/or technical) for programs designed to reduce recidivism by facilitating the reintegration of minority youth in the community following release from dispositional commitments to reduce recidivism;

(iv) *Policies and procedures.* Providing financial and/or technical assistance that addresses necessary changes in statewide and local, executive, judicial, and legal representation policies and procedures; and

(v) *Staffing and training.* Providing financial and/or technical assistance that addresses staffing and training needs that will positively impact the disproportionate confinement of minority youth in secure facilities.

(4) The time-limited plans of action set forth in paragraphs (j)(1), (2) and (3) of this section must include a clear indication of current and future barriers; which agencies, organizations, or individual(s) will be responsible for taking what specific actions; when; and what the anticipated outcomes are. The interim and final outcomes from implementation of the time-limited plan of action must be reported in each State's Multi-Year Plans and Annual Plan Updates. Final outcomes for individual project awards are to be included with each State's annual performance report (see paragraph (h) of this section).

(5) Technical assistance is available through the OJJDP Technical Assistance Contract to help guide States with the data collection and analysis, and with programmatic elements of this requirement. Information from the OJJDP Special Emphasis Initiative on Disproportionate Minority Confinement pilot sites will be disseminated as it becomes available.

(6) For purposes of this statutory mandate, minority populations are defined as: African-Americans, American Indians, Asians, Pacific Islanders, and Hispanics.

* * * * *

28. Section 31.403 is revised to read as follows:

§ 31.403 Civil Rights Requirements.

The State assures that it will comply, and that subgrantees and contractors will comply, with all applicable Federal non-discrimination requirements, including:

(a) Section 809(c) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and made applicable by Section 299(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended;

(b) Title VI of the Civil Rights Act of 1964, as amended;

(c) Section 504 of the Rehabilitation Act of 1973, as amended;

(d) Title IX of the Education Amendments of 1972;

(e) The Age Discrimination Act of 1975;

(f) The Department of Justice NonDiscrimination regulations, 28 CFR Part 42, Subparts C, D, E, and G;

(g) The Department of Justice regulations on disability discrimination, 28 CFR Parts 35 and 39; and

(h) Subtitle A, Title II of the Americans with Disabilities Act (ADA) of 1990.

Office of Juvenile Justice and Delinquency Prevention.

Shay Bilchik,

Administrator.

[FR Doc. 95–5919 Filed 3–9–95; 8:45 am]

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Federal Register

Friday
March 10, 1995

Part VII

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Special Research Grants Program, Water Quality for Fiscal Year 1995, Solicitation of Applications; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Special Research Grants Program, Water Quality for Fiscal Year 1995; Solicitation of Applications

Applications are invited for competitive grant awards under the Special Research Grants Program, Water Quality for Fiscal Year 1995.

Authority and Funding

The authority for this program is contained in section 2(c)(1)(A) of the Act of August 4, 1965, Public Law No. 89–106, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990, Public Law No. 101–624 (7 U.S.C. 450i(c)(1)(A)). This program is administered by the Cooperative State Research, Education, and Extension Service (CSREES) of the U.S. Department of Agriculture (USDA). (The CSREES was established by Section 251(d)(1) of Public Law 103–354, the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, and the functions of the Cooperative State Research Service were transferred to the CSREES by Section 2.b(7) of the Secretary of Agriculture's Memorandum 1010–1, dated October 20, 1994.) Under this program, and subject to the availability of funds, the Secretary may award grants for periods not to exceed five years, for the support of research projects to further the program discussed below. Proposals may be submitted by State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals. Proposals from scientists at non-United States organizations will not be considered for support.

Funds will be awarded on a competitive basis to support water quality research within the scope of the program. A total of approximately $1,000,000 will be available for this program in Fiscal Year 1995. Funding requested for each proposal submitted in Fiscal Year 1995 shall not exceed $500,000 for a period of one year. Two proposals are expected to be funded in Fiscal Year 1995. Under this program, the maximum total funding that may be requested over a funding period of five years shall not exceed $2,000,000 per proposal. Funding for years two through five will depend upon the availability of funds and progress toward the objectives.

Pursuant to Section 712 of Public Law 103–330, (the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995), funds available in Fiscal Year 1995 to pay indirect costs on research grants awarded competitively by CSREES may not exceed 14 per centum of the total Federal funds provided under each award.

In addition, pursuant to Section 719(b) of Public Law No. 103–330, in case any equipment or products may be authorized to be purchased with funds provided under this program, entities receiving such funds are encouraged to use such funds to purchase only American-made equipment or products.

Applicable Regulations

Regulations applicable to this program include the following: (a) the administrative provisions governing the Special Research Grants Program, 7 CFR part 3400, as amended (56 FR 58146, November 15, 1991) which set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects; (b) the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015; (c) the USDA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR part 3016; (d) the Audits of Institutions of Higher Education and Other Nonprofit Institutions, 7 CFR part 3051 (58 FR 41410, August 3, 1993); (e) the Governmentwide Debarment and Supervision (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 7 CFR part 3017, as amended; and (f) New Restrictions on Lobbying, 7 CFR part 3018.

Program Description

Program-related questions should be directed to either of the following:

Dr. Maurice L. Horton
Dr. Berlie L. Schmidt
Phone No. (202) 401–4504
Fax No. (202) 401–1706

The scope of research includes developing principles to better understand the processes and interactions occurring in soil and crop management systems involving the use of certain pesticides, fertilizers and wastes which may impact water quality. The research should have a holistic point of view including products to be developed and a plan for transfer of new technology.

The focus of the Fiscal Year 1995 research is to develop new and innovative agricultural management strategies for use by farmers and public officials to reduce or prevent pollution of water sources. The research must address water quality problems at the landscape—watershed scale. Traditional small plot research is not excluded but must be integrated into an overall project where direct evidence is obtained at the watershed scale. The proposed strategies for reducing pollution should be developed in partnership with Federal, State and local agencies, universities, private industry, public interest groups or other stakeholders. Economic and environmental impacts upon water quality are to be considered. The final product of the research should be agricultural management systems that will be effective in reducing pollution on a watershed scale, economical to implement, sustainable, acceptable to producers, and in compliance with policy guidelines.

In the water quality program, the term ''AGRICULTURE'' encompasses the production of food, feed, fiber, and industrial crops, trees and livestock, and includes rural residences and rural communities, forests and wooded areas. Proposals on health risk problems are excluded.

Format for Research Grant Proposals

The administrative provisions governing the Special Research Grants Program, 7 CFR part 3400, set forth instructions for the preparation of grant proposals. The following proposal format requirements are in addition to or deviate from those contained in 7 CFR part 3400.4(c). In accordance with 7 CFR part 3400.4(c), to the extent that any of the following additional requirements are inconsistent or in conflict with the instructions at 7 CFR part 3400.4(c), the provisions of this solicitation shall apply.

The sections of the proposal shall be assembled in the following order: (1) Application for Funding, (2) Title of Project, (3) Abstract, (4) Key Words, (5) Justification, (6) Objectives, (7) Procedures, (8) Research Timetable, (9) Literature Review, (10) Current Research, (11) Facilities and Equipment, (12) Collaborative Arrangements, (13) Curriculum Vitae of Investigators, (14), Budget, (15) Assurance Statements(s), if applicable, (16) Current and Pending Support, and (17) NEPA statement. Items (2) through (9) are limited to 25 pages, including any figures or tables. The curriculum vitae should be limited to a presentation of academic and research credentials, e.g., educational,

employment and professional history, and honors and awards. Unless pertinent to the project, do not include meetings attended, seminars given, or personal data such as birth date, marital status, or community activities. The vitae shall be no more than 2 pages each in length, excluding publications listings. A chronological list of all relevant publications in referred journals during the past five years, including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Also list those non-referred technical publications that have relevance to the proposed project. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference.

Application for Funding. Attach a completed and signed Application for Funding, Form CSRS–661, to the front of the proposal. The original copy of Form CSRS–661, must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative. Form CSRS–661 and other required forms and certifications are contained in the Application Kit.

Type and Paper Size. Type should be no smaller than 12 characters per inch (12 pitch or 10 point), single-spaced on one side of 8 ½″×11″ paper with margins of one inch or greater. Total length of the proposal text shall not exceed 25 pages as stated above. Reduction by photocopying or other means for the purpose of meeting above-stated page limits is not permitted. Attachment of appendices is not permitted. Proposals which do not fall within the guidelines of this solicitation will be eliminated from the competition and will be returned to the applicant, as stated in Section 3400.14(a) of the Administrative Provisions governing the Special Research Grants Program.

Abstract and Key Words. The body of the proposal should be prefaced by an abstract and key words which are used to classify the proposal.

Abstract. Include factual, concise, and clear statements of proposed research as phrases or sentences. Limit the length of the abstract to about one-half page.

Key Words. Select two double words or four single words that describe the research emphasis, such as water quality, conservation tillage, nitrates, tillage, models, or contaminants.

Justification. Describe the water quality problems, or potential problems, including: where they occur; relevance to site-specific, watershed, regional, State, and national size scales. The expected application or use of resulting information should be explained; for example: value to the economy, methods of chemical analyses, need for specific model, basis of recommendations, understanding of processes, or relevancy to a specific water quality research program.

Multi-Institutions/Organizations. Multi-disciplinary and multi-institution collaboration is required. Collaborators must demonstrate significant contributions to the planning and conduct of the research. Collaborators or cooperative arrangements may include universities, other research organizations, or federal or state agencies such as the Agricultural Research Service, Natural Resources Conservation Service, Cooperative State Research Education, and Extension Service (except Natural Resources and the Environment, which will be the unit within CSREES awarding the special grant), State Agricultural or Natural Resource Agencies, Economic Research Service, U.S. Geological Survey, and the Environmental Protection Agency. Projects such as Hydrologic Unit Areas, Management Systems Evaluation Areas (MSEA), Demonstration Sites, Farmstead Assessment, and Area Studies provide excellent opportunities for collaboration. Evidence, such as letters of intent, should be provided to assure peer reviewers that the collaborators involved have agreed to render their service.

Budget, Form CSRS–55. A copy of Form CSRS–55, along with instructions for completing it, is included in the Application Kit. Applicants should note the special instructions shown below when completing Form CSRS–55.

Item D., ''Nonexpendable Equipment.'' Requested items of equipment must be itemized (by description and cost) on a separate sheet of paper attached to Form CSRS–55, or in the body of the proposal. The need for all requested equipment must be fully justified in the proposal.

Item F., ''Travel.'' The type and extent of travel and its relationship to project objectives should be described and justified. It should be noted that the terms and conditions of any grant awarded under this program will require Principal Investigators, as defined at 7 CFR 3400.2(c), to participate in at least one annual regional or national research reporting, evaluation, and planning workshop or conference, for the purpose of interstate, interagency, and interdisciplinary coordination in this water quality program. Funds may be requested under this budget category for these workshop/conference costs.

Item I., ''All Other Direct Costs.'' Subawards are to be shown on each budget sheet of the primary budget. Subawardee budgets should be provided on separate forms in the same detail.

Item K., ''Indirect Costs.'' The recovery of indirect costs under this program may not exceed the lesser of the grantee institution's official negotiated indirect cost rate or the equivalent of 14% of total Federal funds awarded. This limitation also applies to the recovery of indirect costs by any subawardee or subcontractor, and should be reflected in the subrecipient budget.

Compliance With the National Environmental Policy Act

As outlined in 7 CFR part 3407 (the CSREES regulations implementing the National Environmental Policy Act of 1969), environmental data for any proposed project is to be provided to CSREES so that CSREES may determine whether any further action is needed. The applicant shall review the following categorical exclusions and determine if the proposed project may fall within one of the categories.

(1) Department of Agriculture Categorical Exclusions (7 CFR 1b.3)

(i) Policy development, planning and implementation which are related to routine activities such as personnel, organizational changes, or similar administrative functions;

(ii) Activities which deal solely with the functions of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(iii) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(iv) Educational and informational programs and activities;

(v) Civil and criminal law enforcement and investigative activities;

(vi) Activities which are advisory and consultative to other agencies and public and private entities; and

(vii) Activities related to trade representation and market development activities abroad.

(2) CSREES Categorical Exclusions (7 CFR 3407.6(a)(2))

Based on previous experience, the following categories of CSREES actions are excluded because they have been found to have limited scope and intensity and to have no significant individual or cumulative impacts on the quality of the human environment:

(i) The following categories of research programs or projects of limited size and magnitude or with only short-term effects on the environment:

(A) Research conducted within any laboratory, greenhouse, or other contained facility where research practices and safeguards prevent environmental impacts;

(B) Surveys, inventories, and similar studies that have limited context and minimal intensity in terms of changes in the environment; and

(C) Testing outside of the laboratory, such as in small isolated field plots, which involves the routine use of familiar chemicals or biological materials.

(ii) Routine renovation, rehabilitation, or revitalization of physical facilities, including the acquisition and installation of equipment, where such activity is limited in scope and intensity.

In order for CSREES to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, Form CSRS–1234, ''NEPA Exclusions Form'' (copy enclosed), must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefor. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion must be identified. The information submitted shall be identified in the Table of Contents as NEPA Considerations and Form CSRS–1234 and supporting documentation shall be place after the Form CSRS–661, ''Application for Funding,'' in the proposal.

Even though the applicant considers that a proposed project may fall within a categorical exclusion, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for a proposed project if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present that may cause such activity to have a significant environmental effect.

Review Criteria

Proposals will be evaluated by a peer review group of qualified scientists selected in accord with Section 3400.11 of the administrative provisions governing the Special Research Grants Program. Pursuant to 7 CFR part 3400.5(a), the following selection criteria for proposals will be used in lieu of those which appear in Section 3400.15 of the administrative provisions:

Selection Criteria—Maximum Score

Overall Scientific and Technical Quality—40
—Creative and innovative scientific approach
—Clear, concise, and achievable objectives
—Technical soundness of procedures
—Feasibility of attaining objectives
—Applicability to watershed scale systems
Justification, Review of Literature and Current Research—15
—Importance of the problem
—Relevance of proposed research to solution of the problem
—Literature focused on specific research approach and objective
Budget, Resources, and Personnel—15
—Necessary facilities, resources, and personnel available
—Funds contributed by other agencies
—Budget appropriate for proposed research
—Demonstrated scientific capability of investigators
Collarboration—20
—Evidence of significant contributions by collaborators
—Evidence and justification of multi-disciplinary and/or multi-institutional and multi-agency collaboration
Application of Research Results—10
—Planned application and implementation of research results
—Extension, transferability, and publication of results
—Potential for results to enhance agricultural sustainability
Total—100

How To Obtain Application Materials

Copies of this solicitation, the Application Kit, and the administrative provisions governing this program, 7 CFR Part 3400, may be obtained by writing to the address or calling the telephone number which follows: Proposal Services Branch; Awards Management Division; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Ag Box 2245; Washington, DC 20250–2245; Telephone: (202) 401–5048.

These materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number to psb@morrill.esusda.gov. which states that you want a copy of the application materials for the Fiscal Year 1995 Special Research Grants Program, Water Quality. The materials will then be mailed to you (not e-mailed) as quickly as possible.

Applicants should note that separate but complementary programs in water resources assessment and protection, soils and soil biology, and agricultural systems exist within the CSREES National Research Initiative Competitive Grants Program. For further information on that program, contact the Proposal Services Branch at the address listed above. Proposals should be submitted to the most appropriate program—submission of duplicate proposals or proposals with substantial overlap to both programs is discouraged.

What To Submit

An original and twelve copies of each proposal, prepared in accordance with the instructions found above, must be submitted. This number of copies is necessary to permit thorough, objective peer evaluation of all proposals received before funding decisions are made.

All copies of a proposal must be mailed in one package and each copy must be stapled securely in the upper left-hand corner. Every effort should be made to ensure that the proposal contains all pertinent information when initially submitted.

One copy of each proposal not selected for funding will be retained for a period of one year. The remaining copies will be destroyed.

Where and When To Submit Applications

To be considered for funding during Fiscal Year 1995, proposals must be submitted by April 28, 1995.

Proposals submitted through the regular mail must be postmarked by April 28, 1995, and should be sent to the following address: Proposal Services Branch; Awards Management Division; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Ag Box 2245; Washington, D.C. 20250–2245. The telephone number is: (202) 401–5048.

Hand-delivered proposals must be submitted to an express mail or courier service by April 28, 1995, or brought to the following address by 4:30 p.m. on April 28, 1995: Proposal Services Branch; Awards Management Division; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 303, Aerospace Center; 901 D Street, S.W.; Washington, D.C. 20024. The telephone number is: (202) 401–5048.

Supplementary Information

The Special Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.200.

For reasons set forth in the final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Done at Washington, DC, this 6th day of March 1995.

K. Jane Coulter,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

BILLING CODE 3410–22–M

UNITED STATES DEPARTMENT OF AGRICULTURE
COOPERATIVE STATE RESEARCH SERVICE

OMB Approved 0524-0033
Expires 6/97

National Environmental Policy Act Exclusions Form

Principal Investigator/Project Director Name	Institution
Address	

Under 7 CFR Part 3407 (CSRS's implementing regulations of the National Environmental Policy Act of 1969 (NEPA)), environmental data or documentation is required in order to assist CSRS in carrying out its responsibilities under NEPA, which includes determining whether proposed research requires the preparation of an environmental assessment or an environmental impact statement, or whether such research can be excluded from this requirement on the basis of several categories. Therefore, it is necessary for the applicant to advise CSRS whether the proposed research falls into one of the following Department of Agriculture or CSRS categorical exclusions, or whether the research does not fall into one of these exclusions (in which case the preparation of an environmental assessment or an environmental impact statement may be required). Even though the applicant considers that a proposed project may or may not fall within a categorical exclusion, CSRS may determine that an environmental assessment or an environmental impact statement is necessary for a proposed project should substantial controversy on environmental grounds exist or if other extraordinary conditions or circumstances are present that may cause such activity to have a significant environmental effect.

Please Read All of the Following and Check All Which Apply

☐ **The proposed research falls under the categorical exclusion(s) indicated below:**

Department of Agriculture Categorical Exclusions
(found at 7 CFR 1b.3 and restated at 7CFR 3407.6 (a)(1)(i) through (vii))

☐ (i) Policy development, planning and implementation which are related to routine activities such as personnel, organizational changes, or similar administrative functions

☐ (ii) Activities that deal solely with the functions of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds

☐ (iii) Inventories, research activities, and studies such as resource inventories and routine data collection when such actions are clearly limited in context and intensity

☐ (iv) Educational and informational programs and activities

☐ (v) Civil and criminal law enforcement and investigative activities

☐ (vi) Activities that are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation

☐ (vii) Activities related to trade representation and market development activities abroad

CSRS Categorical Exclusions
(found at 7 CFR 3407.6(a)(2)(i) through (ii))

The following categories of CSRS actions are excluded because they have been found to have limited scope and intensity and to have no significant individual or cumulative impacts on the quality of the human environment:

(i) The following categories of research programs or projects of limited size and magnitude or with only short-term effects on the environment:

☐ (A) Research conducted within any laboratory, greenhouse, or other contained facility where research practices and safeguards prevent environmental impacts

☐ (B) Surveys, inventories, and similar studies that have limited context and minimal intensity in terms of changes in the environment

☐ (C) Testing outside of the laboratory, such as in small isolated field plots, which involves the routine use of familiar chemicals or biological materials

☐ (ii) Routine renovation, rehabilitation, or revitalization of physical facilities, including the acquisition and installation of equipment, where such activity is limited in scope and intensity

OR

☐ **Proposed research does *not* fall into one of the above categorical exclusions**
(NOTE: If checked, please attach an explanation of the potential environmental impacts of the proposed research. May require completion of an environmental assessment or an environmental impact statement.)

Please refer all questions regarding the completion of this form to the USDA National Biological Impact Assessment Program at (202) 401-4892.
Form CSRS-1234 (4/94)

[FR Doc. 95–5991 Filed 3–9–95; 8:45 am]
BILLING CODE 3410–22–C

Friday
March 10, 1995

Part VIII

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 92

Eligible Applicants for the HOME Investment Partnerships Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 92

[Docket No. R–95–1775; FR–3860–F–01]

RIN 2501–AB90

Eligible Applicants for the HOME Investment Partnerships Program

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the existing interim rule for the HOME Investment Partnerships Program by making it conform with the program definition for eligible applicants in the Indian Community Development Block Grant Program. This revision will eliminate confusion and simplify administration of Native American Tribal Programs. This final rule is intended to be effective for the Fiscal Year 1995 funding cycle, for which applications are due April 14, 1995.

EFFECTIVE DATE: April 10, 1995.

FOR FURTHER INFORMATION CONTACT: Bruce Knott, Director, Housing & Community Development Division, Office of Native American Programs, room B–133, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–0068 (this is not a toll-free number). Hearing- or speech-impaired persons may use the TDD number by contacting the Federal Information Relay Service on 1–800–877–TDDY (1–800–877–8339) (a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The HOME Investment Partnerships Program (HOME) was enacted under title II (42 U.S.C. 12701–12839) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) (Pub. L. 101–625, approved November 28, 1990). One of the purposes of the HOME program is to provide funds to Indian tribes in order to expand the supply of decent, safe, sanitary, and affordable housing for very low-income and low-income Americans. HUD's implementing regulations for the Indian HOME Program are found at 24 CFR part 92. In a separate rulemaking, the Department is relocating these regulations to a new 24 CFR part 954.

At the present time, applicants eligible for grant assistance under the Indian HOME program are defined as Indian tribes. This has caused confusion among constituents for assistance under HUD-administered tribal programs, especially in Alaska, and is inconsistent with the definition of eligible applicant for grant assistance under the Indian Community Development Block Grant program. This final rule amends the existing interim rule for the HOME Investment Partnerships Program by making it conform with the program definition for eligible applicants in the Indian Community Development Block Grant Program in order to simplify administration of Native American Tribal Programs. The revision is intended to be effective for the Fiscal Year 1995 funding cycle, for which applications are due April 14, 1995.

II. Justification for Final Rulemaking

It is HUD's policy to publish rules for public comment before their issuance for effect, in accordance with its own regulations on rulemaking found at 24 CFR part 10. However, part 10 provides that prior public procedure will be omitted, if HUD determines that it is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). The Department finds that in this case prior public comment is contrary to the interest of the public. This final rule merely amends 24 CFR part 92 by incorporating the definition of ''eligible applicants'' found in the Indian Community Development Block Grant Program in order to eliminate confusion and simplify administration of Native American Tribal Programs.

III. Other Matters

A. Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). This Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

B. Federalism Impact

The General Counsel, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this final rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government.

C. Impact on the Family

The General Counsel, as the designated official under Executive Order 12606, *The Family,* has determined that this final rule would not have significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

D. Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities.

E. Regulatory Agenda

This final rule was not listed in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Number for the HOME Program is 14.239.

List of Subjects in 24 CFR part 92

Administrative practice and procedure, Grant programs—housing and communitiy development, Grant programs—Indians, Indians, Low and moderate income housing, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 92, is amended as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

1. The authority citation for part 92 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

2. Section 92.602 is revised to read as follows:

§ 92.602 Eligible Applicants for HOME Funds for Indian Tribes.

(a) Eligible applicants for HOME funds for Indian tribes are any Indian Tribe, band, group, or nation, including Alaskan Indians, Aleuts, and Eskimos, and any Alaskan native village of the United States which is considered an eligible recipient under Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) or which had been an eligible recipient under the State and Local

Fiscal Assistance Act of 1972 (31 U.S.C. 1221). Eligible recipients under the Indian Self-Determination and Education Assistance Act will be determined by the Bureau of Indian Affairs and eligible recipients under the State and Local Fiscal Assistance Act of 1972 are those that have been determined eligible by the Department of Treasury, Office of Revenue Sharing.

(b) Tribal organizations which are eligible under Title I of the Indian Self-Determination and Education Assistance Act may apply on behalf of any Indian Tribe, band, group, nation, or Alaskan native village eligible under that act for funds under this part when one or more of these entities have authorized the Tribal organization to do so through concurring resolutions. Such resolutions must accompany the application for funding. Eligible Tribal organizations under Title I of the Indian Self Determination and Education Assistance Act will be determined by the Bureau of Indian Affairs.

(c) Only eligible applicants shall receive grants. However, eligible applicants may contract or otherwise agree with non-eligible entities such as States, cities, counties, or other organizations to assist in the preparation of applications and to help implement assisted activities.

(d) To apply for funding in a given fiscal year, an applicant must be eligible as an Indian Tribe or Alaskan native village, as provided in paragraph (a) of this section, or as a Tribal organization, as provided in paragraph (b) of this section, by the application submission date.

(e) Applicants must have the administrative capacity to undertake the project proposed, including systems of internal control necessary to administer these projects effectively.

Dated: March 2, 1995.

Henry G. Cisneros,

Secretary.

[FR Doc. 95–5969 Filed 3–9–95; 8:45 am]

BILLING CODE 4210–32–P

Federal Register

Friday
March 10, 1995

Part IX

Department of the Treasury

Customs Service

19 CFR Part 12

Prehistoric Artifacts From El Salvador; Final Rule

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 95–20]

RIN 1515–AB70

Prehispanic Artifacts From El Salvador

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the imposition of import restrictions on certain prehispanic artifacts from El Salvador. These restrictions are being imposed pursuant to an agreement between the United States and the Republic of El Salvador which has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The document also contains the Designated List of Archaeological Material representing Prehispanic cultures of El Salvador which describes the articles to which the restrictions apply.

EFFECTIVE DATE: March 10, 1995.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: Donnette Rimmer, Intellectual Property Rights Branch (202) 482–6960.

Operational Aspects: Louis Alfano, Office of Trade Compliance (202) 927–0005.

SUPPLEMENTARY INFORMATION

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the ''Convention on Cultural Property Implementation Act'' (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*). The spirit of the Convention was enacted into law to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance not only to the nations whence they originate, but also to greater international understanding of mankind's common heritage. The U.S. is, to date, the only major art importing country to implement the 1970 Convention.

During the past several years, import restrictions have been imposed on a emergency basis on archaeological and cultural artifacts of a number of signatory nations as a result of requests for protection received from those nations.

Now, for the first time, import restrictions are being imposed as the result of a bilateral agreement entered into between the United States and a signatory nation. This agreement has been entered into in March 1995, pursuant to the provisions of 19 U.S.C. 2602. Accordingly, the Customs Regulations are being amended to reflect the imposition of the restrictions. Section 12.104g(a) is being amended to indicate that restrictions have been imposed pursuant to the agreement between the United States and the Republic of El Salvador.

This document contains the Designated List of Archaeological Material representing Prehispanic cultures of El Salvador which are covered by the agreement. Importation of articles on this list is restricted unless the articles are accompanied by an appropriate export certification issued by the Government of the Republic of El Salvador.

Because this agreement includes categories of objects from the Cara Sucia Archaeological Region of El Salvador which have been subject to emergency import restrictions, and because those restrictions are about to expire, Customs is also amending paragraph (b) of this section by removing the entry for El Salvador.

Designated List of Archaeological Material Representing Prehispanic Cultures of El Salvador

Pursuant to an agreement between the United States and the Republic of El Salvador, the following contains descriptions of the cultural materials for which the United States imposes import restrictions under the Convention on Cultural Property Implementation Act (P.L. 97–446), the legislation enabling implementation of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The Designated List below subsumes those categories of objects from the Cara Sucia Archaeological Region of El Salvador for which emergency import restrictions have been in place since 1987. With publication of the Designated List below, protection of the Cara Sucia material continues without interruption.

What follows immediately is a list of terms for time periods and their subdivisions. Please note that some terms are overlapping and are used to distinguish pivotal intervals in regional prehistory (these terms are: Protoclassic, Terminal Classic, and Protohistoric). Different references may vary slightly as to the beginning and end dates for the periods listed here.

Archaic Period: circa 8000–1700 B.C.

Preclassic Period: 1700 B.C.–200 A.D.

Early Preclassic: 1600 B.C.–800 B.C.
Middle Preclassic: 800 B.C.–400 B.C.
Late Preclassic: 400 B.C.–200 A.D.

Classic Period: 200–900 A.D.

Protoclassic: 200 B.C.–200 A.D.
Early Classic: 200–600 A.D.
Late Classic: 600–900 A.D.
Terminal Classic: 800–900 A.D.

Postclassic Period: 900–1520 A.D.

Early Postclassic: 900–1200 A.D.
Late Postclassic: 1200–1520 A.D.
Protohistoric: circa 1400–1550 A.D.

The following Designated List is representational and may be amended as appropriate.

1. Figurines

1a. Preclassic Figurines.

Most are solid ceramic figurines representing women with broad torsos and thighs, and small or virtually flat breasts. These are portrayed in a sitting or standing position. The eyes and mouth were typically represented by jabbing small holes into the still wet clay (punctation), many times with two

or three holes used to depict each eye. Although the bodies are crafted without much detail, elaborate coiffures are commonly shown.

Dating: Most Preclassic figurines date to the Late Preclassic (corresponding to the Chul and Caynac Ceramic Complexes of western El Salvador, and the Uapala Phase of eastern El Salvador).

Appearance: Often cream to white, but may also be red or brown (ranging from dark brown to tan). Usually of very fine textured clay.

Size: Most range between 4″ (10 cm) to 8″ (20 cm) in height. Examples smaller than about 4″ may be perforated for use as pendants. Rare figurines 16″ (40 cm) or more in height have been reported.

Important Variants: Some of the larger figurines are hollow rather than solid. Very rare examples have movable arms, with sockets set into the shoulders and separate arm pieces that were actuated by means of strings. Some figurines depict women cradling infants. Whistle mechanisms are very rarely present. Painted designs in black or other colors are very rare on these figurines.

Formal Names: Bolinas figurines (Boggs 1973a); Kulil, Xiquin, and Tat Complex figurines (Dahlins 1978); Quelepa Figurine Types 1 and 2 (Andrews 1976).

1b. Lepa Figurines

Most are solid ceramic figurines representing standing humans, while others are animal effigies that function as whistles, whistle flutes, or wheeled figurines incorporating whistle flutes.

Human figurines: These figurines have a generally flattened appearance and heads are usually crowned by a broad and narrow headband (or hairdo) resembling a long bar. Eyes are shown by a single punctuation (to represent the pupil) between two ridges defining the eye itself. Feet are usually split in a ''Y'' shape to help support the figurine. The figurines may be adorned with necklaces shown by a series of clay pellets. Rarely is enough detail included to determine which sex is intended (in such cases women are usually represented).

Pelleted Tubular Whistle Flutes: Tubes with a whistle mechanism (blow-hole) at one end and a rolling pellet within, that produces a continuously varying tone when blown and tilted up and down. Simple bird or monkey heads may be added to the instrument's body.

Wheeled Figurines: Human or animal effigies with four tabular legs, each with a perforation to accept wooden sticks as axles for the front and rear wheels (the wheels themselves were ceramic discs rarely found together with these artifacts). Decoration is mostly through applique using relatively thick strips and pellets of clay.

Animal Effigy Whistle flutes: Made from a small sphere of clay with very simple (schematic) applique to represent humans, birds, turtles, armadillos, opossums, and other animals. In addition to the whistle mechanism, these have one or two finger holes in their bodies that vary their tone when covered. The most elaborate examples may have punctate and ridge eyes like those found in the Lepa human figurines. May be perforated for suspension.

Dating: Late Classic Lepa Phase of central and eastern El Salvador, represented in Quelepa, Tehuacán, and other sites.

Appearance: Usually reddish brown to brick red, with a rough or only moderately smoothed surface. Some have a polished white slip that, when well preserved, may have elaborate designs painted in black, red, and/or yellow. Pelleted tubular whistle flutes have been noted with fugitive (post-firing) white and/or blue paint.

Size: Most human figurines range in height between 5″ (12 cm) to 10″ (25 cm). Unusually large examples are known to reach 15″ (38 cm) in height, and these tend to bear painted designs more often than the normal sized figurines. The pelleted tubular whistle flutes known are 7″ (18 cm) or slightly shorter in length. The wheeled figurines known range from about 3.5″ (9 cm) to 5″ (13 cm) in length. The animal effigy whistle flutes measure about 2–3″ (5–8 cm) in maximum length.

Important Variants: Larger figurines may be hollow rather than solid, and may either contain pellets to act as a rattle, or may be equipped with holes for use as a flute (''ocarina'').

Formal Names: The human figurines have been classed as Lower Lempa Culture figurines (Haberland 1961) and as Quelepa Figurine Type 3 (Andrews 1976). The wheeled figurines have been termed Oriental Type (Boggs 1973b). The animal effigy whistle flutes have been referred to as Lepa Phase whistles (Andrews 1976; see also Boggs 1974).

1c. Cotzumalhuapa Figurines and Molds

Ceramic figurines, usually hollow and typically mold made in part (especially heads). About half the known examples represent women and most of the remainder depict a variety of animals (men are rare). Some representations of plants and furniture (litters) are known. Whistle mechanisms were optional for all forms of Cotzumalhuapa figurines. Pelleted tubular whistle flutes and recently identified Cotzumalhuapa wheeled figurines are also included here.

Molds: The molds used to produce these figurines were press molds made of coarse textured fired clay, usually brick red or reddish brown in color. The working faces of these molds present a complicated depressed area that produces the impression, while the opposite side of the mold is usually rounded and carelessly finished. A sheet of wet clay was pressed into the mold and then carefully extracted with the impression of, for examples, the front half of a female figurine (the other half was added by hand modeling, as were optional details like headgear should these be absent from the mold used).

Female Figurines: The figurines representing women have been referred to as ''bell-form'' due to the shape of their conical hollow bases. They usually portray elaborately dressed women, adorned with necklaces, earplugs, and large headgear of variable shape (but often resembling a half moon). The uniformity in portrayal suggests that we are dealing with a personage, and it is not too speculative to suggest that she was an important Cotzumalhuapa goddess. Rare figurines exist where the female's body is covered by cacao pods, indicating a relationship to agricultural production and, in these latter example, with the intensive production of cacao that has been documented as an important Cotzumalhuapa economic focus. Whistle mechanisms, when present, are usually worked into one shoulder (the larger female figurines tend not to possess whistle mechanisms).

Male Figurines: The very rare male figurines are known to include representations of warriors (with clubs and shields) and injured or diseased individuals (one example shows an individual with patches of flesh missing from the maxillary area and nose).

Animal Figurines: Among the animals present in Cotzumalhuapa figurines are: parrots, vultures, owls, doves, monkeys, felines (probably jaguars are intended), bats, dogs, deer, frogs or toads, turtles, iguanas, snakes, crocodiles, fish, clams, crabs, and others. These reflect the rich fauna of the Cotzumalhuapa area, which included mangrove lined estuaries, the adjoining coastal plains, and nearby mountain ranges. Monkeys and parrots are, however, the most common animals depicted. Most animal figurines have whistle mechanisms. Because of the complicated forms required for animals, use of molds may sometimes be limited

to face areas, and some are entirely hand modeled.

Plant Figurines: Representations of corn cobs and cacao pods have been found.

Pelleted Tubular Whistle Flutes: Tubes with a whistle mechanism (blow-hole) at one end and a rolling pellet within, that produces a continuously varying tone when blown and tilted up and down. One example is apparently a bat effigy, with a bat head and disk (representing the wings?) added to the tubular body of the instrument.

Wheeled Figurines: Cotzumalhuapa wheeled figurines have recently been identified. One has a tubular body with four tabular supports, each with a perforation to accept the wooden sticks that acted as axles for the front and rear wheels. A mold-made dog head was added to one end of the tube, and a tail to the other.

Other Figurines: Two figurines have been documented representing the litters that were probably used to transport Cotzumalhuapa elites. They resemble a small rectangular box with a canopy, supported by four spiked feet. A pair of holes at each extreme permitted two sticks to be inserted to act as the carrying poles. On one example the canopy was modeled to represent the stretched skin of a crocodile arranged with the head at one extreme and the tail at the other, with a spiked crest running between the two. Other Cotzumalhuapa modeled clay artifacts that may be included as figurines include objects resembling scepters, bells, lidded boxes, and plaques with human faces.

Dating: Late Classic products of the Cotzumalhuapa culture which in El Salvador included the western coastal plain to the upper drainage of the Paz River; trade brought examples into Payu Ceramic Complex contexts elsewhere in western and central El Salvador.

Appearance: Most are brown (from tan through reddish brown) to red (brownish red to brick red), with a coarsely finished to moderately smoothed surface. Rare examples are of Tiquisate Ware (characterized by a very smooth, lustrous, and hard surface, cream to orange in color), and may be ancient imports from the Pacific coast of Guatemala. Traces of paint may be present (blue, black, red, yellow, and white have been documented); the paint was usually applied after firing and tends to be easily eroded. Those parts of figurines made without the benefit of molds tend to be rather carelessly modeled.

Size: Female figurines usually range in height from 4″ (10cm) to 12″ (30cm), but some rare specimens reach 24″ (60cm) and perhaps more in height. Animal and plant figurines tend to be small, typically ranging from 3″ (8cm) to 6″ (16cm) in their maximum dimension, though larger examples occur. The pelleted tubular whistle flute mentioned measures 6″ in length (16cm). A measurement for a wheeled figurine is 5.5″ (14cm) in length. The models of litters are approximately 9″ (23cm) in length.

Important Variants: Cotzumalhuapa use of clay was very creative and the observer should expect figurine forms not mentioned here.

1d. Payu Figurine Flutes and Whistles

Most Payu ceramic figurines known are musical instruments that have been classified as whistles, whistle flutes, and flutes (commonly called ''ocarinas''). Although their decoration varies considerably, important hallmarks (when present) are the decorative use of parallel strips of clay (sometimes with longitudinal grooves), and applique of clay pellets with a distinctive dimple in their center. Molds were sometimes employed to render the faces of humans and monkeys. Human faces may include details commonly associated with Classic Maya conventions, including cheek decorations (from tatoos or scarification), extension of the bridge of the nose to above eye level, and/or a steeply inclined forehead (representing cranial deformation).

Globular Flutes (''ocarinas''): Payu figurine globular flutes have a very distinctive construction. Three spheres of clay were joined together in a column or in an ''L'' shape (and pierced at the junctures). The uppermost sphere was equipped with a blow-hole. Clay was then packed around this assembly and decorative elements added. All the ''L'' shaped flutes known were decorated to represent a standing quadruped animal whose open mouth forms the blow-hole. The other (straight) flutes were almost always modeled to represent a human (either full-body or just the head portion).

Tubular Whistle Flutes: Basically a tubular form with a whistle mechanism (blow-hole) in one end and three to five finger holes along the body of the tube. The appliqued head and arms or a monkey or human are always present next to the blow-hole.

Whistle Flutes: A small, spherical body with a whistle mechanism and one or two finger holes is hidden to a lesser or greater degree under effigy decoration. This decoration tends to be notably more carefully executed and detailed than Lepa or Cotzumalhuapa examples. Examples include effigies of: humans (full-body or heads), monkeys, dogs, birds, and reptiles. Smaller whistle flutes may be perforated for suspension.

Dating: An artifact class belonging to the assemblage associated with the Payu Ceramic Complex (Late Classic Period).

Appearance: Most Payu figurines are of medium textured clay with a moderately smoothed surface (and almost always unslipped). Color is usually reddish brown but may range from tan to brick red. Traces of paint are rare and may include blue-green, white, yellow, red, or black. Painted decoration, when present, was usually added after firing and tends to easily wear away.

Size: Globular flutes=3–8″ (8–21 cm); tubular whistle flutes=6–8″ (15–21 cm); whistle flutes=2–8″ (5–20 cm).

Formal Names: None. Many examples are illustrated in Boggs 1974 (noted as Late Classic, from western and part of central El Salvador).

1e. Guazapa Figurines

Early Postclassic ceramic figurines whose style is derived from central Mexico and form part of the Guazapa Phase of central and western El Salvador. The Guazapa Phase has been interpreted as marking the large-scale migration of Nahua speakers into this area, these being the ancestors of the historical Pipil.

Mazapan-Related Figurines: Very flat figurines whose rendition of the human figure has been compared to gingerbread cookies. These objects were made by pressing a sheet of clay into a mold, obtaining a thin (0.75–1″ or 2–3 cm) solid figurine. The rear portion of the figurine is left unfinished and may exhibit finger marks from when the clay was pressed into its mold. The front displays a woman with a blouse with a triangular front, coming to a point in the middle of the waist. This type of blouse was referred to as a *quechquemitl* in central Mexico at the time of the Conquest, when its use was restricted to images of goddesses and goddess impersonators. These figurines are so-named for their close similarity to figurines of the Mazapan (Toltec) Phase of central Mexico.

Toad Effigies: Hand modeled large hollow toad effigies. They are usually shown as sitting as erect as possible for a toad, looking upwards. The front and rear of the toad's body is decorated with strips and buttons of clay meant to represent festive ribbons and bows. The tongue may be shown hanging from the mouth. In Postclassic Nahua mythology, toads were considered as Tlaloc's (the rain god) helpers, and it was they who announced the coming of the rains (the

extended tongues are probably meant to represent their thirsty anticipation of rain). Due to this association, some examples are known of toad effigies that include two rings around the eyes (a diagnostic trait of Tlaloc himself).

Tlaloc Bottles: Bottles with a more or less spherical body crowned by a straight tubular neck with a flat, flaring rim. The body is decorated with the face of the rain god Tlaloc whose most distinctive trait is a ring around each eye. Many Tlaloc Bottles are in fact plugged in the neck or body and could not have actually functioned as vessels. Tlaloc was considered to dwell in the mountain peaks and pour out the rains from a bottle; these artifacts were probably household votive images of that bottle.

Very Large Effigy Figurines or Statues: Hand modeled hollow figurines representing jaguars and gods or god impersonators. The larger examples reach life size and may truly be considered as ceramic statuary (in any case, they have been included under ''Figurines'' to facilitate discussion). Known examples of gods or god impersonators represent the gods Tlaloc (identifiable by the rings around his eyes), Mictlantecutli (represented as a skeletal personage) and Xipe Totec (portrayed as wearing a flayed human skin). The largest figures may be crafted in several mating parts (for example, a Xipe Totec effigy was made in two large halves joining at the waist, with a separate head). Seventeen jaguar effigies were found in one excavation at Cihuatán; all of these portray a jaguar sitting on its haunches decorated with necklaces and a few bulbous objects placed on different parts of the body.

Small Solid Figurines: Hand modeled figurines of humans that are usually solid or mostly so, and that occasionally employed molds to form the face. Most appear to represent males who may carry war equipment (such as a dart thrower or *atlatl*) and large headgear. These figurines tend to be relatively small and crudely modeled.

Wheeled Figurines: Small wheeled figurine, consisting in a tubular hollow body with four tabular supports, each with a hole to accept wooden sticks acting as axles for the front and rear wheels. The wheels are flat ceramic disks. A tail was added to one end of the tubular body and a head to the other. Examples are known with deer heads with antlers, and dog heads with tongue extended over the lower lip.

Dating: Artifacts of the Early Postclassic Guazapa Phase of central and western El Salvador (at Cihuatán, Igualtepeque, El Cajete, Ulata, Santa María, Pueblo Viejo Las Marías, and other sites).

Appearance: Generally reddish brown to brick red, but may be as light as tan in color. The surface may be smoothed but not polished and has a sandy texture. Many give the impression of having been hastily made. Traces of white, black, blue, yellow, and/or red fugitive paint have been found on some figurines.

Size: Height of Mazapan-related figurines=6–10″ (15–25 cm); height of toad effigies=6–9″ (15–23 cm); height of Tlaloc bottles=4–10″ (10–25 cm); height of very large effigy figurines or statues=24–55″ (61–140 cm); height of small solid figurines=6–18″ (15–30 cm); length of wheeled figurines=5.5–8.5″ (14–22 cm).

Formal Names: Encompassed by the Guazapa Phase, the type site of which is Cihuatán (see Boggs 1944, 1963, 1973b, 1976; Bruhns 1980; Fowler 1981, 1990).

2. Other Small Ceramic Artifacts

2a. Spindle Whorls or Malacates

Small ceramic disc-shaped artifacts with a central perforation. As viewed in section, these are thicker toward the center. They may have incised or mold-made decoration. These are often mistaken for ceramic beads and many may be strung together for transport or display.

Dating: Late Classic to Protohistoric Periods. Different varieties are documented in relation to Late Classic Phases and ceramic complexes (Lepa, Payu, Tamasha) through the Postclassic (Guazapa, Cuscatlán, and others).

Appearance: Carefully formed and smoothed. Many were slipped, and run the full range of black through brown through red. Fugitive white paint has been noted as a rare filler for incised designs.

Size: 0.8–1.2″ (2.1–3.2cm) in diameter. Holes are always close to 0.25″ (0.6cm) in diameter.

Formal Names: Referred to as spindle whorls or malacates (see for example Longyear 1944; Sharer 1978; Andrews 1976).

2b. Ceramic Seals

Ceramic seals present a high-relief pattern on clay surface and are thought to have been used with paint to stamp designs for body and/or textile decoration. Some were used to impress designs on still-wet pottery objects. Some seals have been found still covered with red pigment.

Seals may be flat, with a spike handle on the rear, or cylindrical and used by rolling. Cylinder seals usually have a central perforation that would have allowed a stick to be passed through and facilitate their use like rolling pins.

Dating: To date, seals have been found in El Salvador in contexts ranging from the Late Preclassic and Late Classic Periods (in relation to the Chul, Caynac and Payu Ceramic Complexes and the Tamasha Phase).

Appearance: Well-smoothed and sometimes slipped surfaces. Color ranges from black-brown through reddish-brown and red.

Size: Flat seals=1.2–5″ (3–13cm) in diameter; cylinder seals may be 2.4–5″ (6–12cm) in length.

Formal Names: Usually referred to as seals or stamps, flat or cylindrical (see Sharer 1978; Demarest 1986; Amaroli 1987).

2c. Miniatures

Very small ceramic objects made in the form of jars or flasks. Often made of a very fine cream colored ceramic. These may be modeled to resemble squash effigies, or may include stamped designs include Maya glyphs, humans forms, or animals. Miniature vessels often contain residuals of red pigment. Late Classic Period.

Size: 1.5–4″ (4–10cm) in height.

Formal Names: None.

2d. Spools

This category includes several varieties of spool-shaped artifacts that functioned as earspools and as labrets. Often a short tab extends from one side, while the other may have modeled (and sometimes mold made) decoration. Alternatively, the spool sides may have incised decoration. Early Preclassic through Postclassic Periods (Sharer 1978; Amaroli 1987).

Size: Normally do not exceed 1.3″ (3.4cm) in their maximum dimension.

3. Ceramic Vessels

3a. Polychrome Vessels

Copador Polychrome Vessels: Hemispherical bowls, bowls with composite walls, cylindrical vases, and jars with painted designs in red, black and optionally yellowish orange on a cream to light orange base. The red paint used is almost always specular (small flecks of crystals flash as the vessel is moved in strong light). Copador paste is cream colored (or sometimes very light brown) and is not very hard or dense. Designs (usually on the exterior) may include bands of motifs derived from Maya glyphs, seated individuals, individuals in a swimming position, melon-like stripes, birds or other animals, and others. Rare examples have excavated lines or

patterns. Copador Polychrome may usually be distinguished on the basis of its specular red paint and cream colored paste.

Dating: Late Classic Period (defined as a member of the Payu Ceramic Complex, also found commonly in Tamasha Phase deposits (Cara Sucia)).

Size: Bowl diameter may vary from 4–12″ (10–30 cm), the height of cylindrical vases may range from 6–12.5″ (15–32 cm), and jar height ranges from approximately 5–11″ (12–28 cm).

Formal Names: Referred to as the Copador Ceramic Group (Sharer 1978).

Gualpopa Polychrome: This type is closely related to Copador Polychrome, with which it shares a cream colored paste and the hemispherical bowl form (rarer forms in Gualpopa are: flat bottomed bowls with vertical walls, and composite walled bowls). Designs in Gualpopa are painted in red (which unlike Copador is not specular) and black on a cream-orange base. Gualpopa motifs are simpler than Copador. Most common are geometric designs (spirals, ''melon'' bands, chevrons, and others), but repeating birds, monkeys, or designs derived from Maya glyphs may be found.

Dating: Late Classic, especially the first part of this period. Defined as a member of the Payu Ceramic Complex.

Size: Diameters range from 6–15″ (16–38 cm).

Formal Names: Termed as the Gualpopa Ceramic Group (Sharer 1978).

Arambala Polychrome: Formerly referred to as ''false Copador'' due to its close resemblance to Copador Polychrome. Arambala may be differentiated from Copador by its reddish paste (contrasting with Copador's cream paste) and the use of a dull red paint (rather than Copador's specular red paint). Apart from these two differences, however, Arambala closely duplicates Copador's repertoire of vessel forms, dimensions, and decoration (please refer to the description for Copador Polychrome for this information). A cream-orange slip was added over Arambala's reddish paste to approximate Copador's base color, but this slip often has a streaky appearance.

Dating: Late Classic Period. A member of the Payu Ceramic Complex and present in the Tamasha Phase of Cara Sucia.

Size: (See the description for Copador Polychrome)

Formal Names: Defined as the Arambala Ceramic Group (Sharer 1978).

Campana Polychrome Vessels: Flat bottomed bowls with flaring walls, usually large. Provided with 4 hollow supports that may take the form of pinched cylinders or cylinders with human or animal effigies. Intricate painted designs were executed in black-brown, dull red, and orange, on a cream to cream-orange base. A large portrayal of a human or animal is featured on the interior center of these vessels, and the rims often have a distinctive encircling twisted rope and dot design. Some examples have a few curving lines of broad (up to 0.5″ or 1.3 cm) Usulután negative decoration. Campana Polychrome paste is dense, hard, and brick red. Other forms include small bowls without supports, with flat bottoms and flaring walls, and cylindrical vases with bulging and sometimes faceted midsections and occasionally short ring bases. The cylindrical vases usually feature panels on opposing side of the vessel with human or animal designs, and may have very short and wide tabular supports.

Dating: Late Classic Period. Present in association with the Payu Ceramic Complex (Sharer 1978), the Lepa Phase (Andrews 1976), and the Tamasha Phase (Amaroli 1987).

Size: The large bowls with supports range from 10–20″ (25–50 cm) in diameter. The small bowls without supports are usually 6–9″ (16–22 cm) in diameter. Cylindrical vases range in height from 7–10″ (18–25 cm).

Formal Names: Termed as the Campana Polychrome Ceramic Group (Sharer 1978).

Salua Polychrome: Mostly cylindrical vases, usually with very short and wide tabular supports. The larger examples may have two opposing modeled head handles just below the rim representing monkeys or other animals. Bold designs are painted on a cream to orange base, using different combinations of black, dull red, dark orange, and yellow. The normally invisible paste is brick red. Black was often used to create ample panels (or even to cover almost the entire vessel) as a backdrop for featured designs. The principal designs are strikingly displayed and can include: mat patterns (*petates*), twisted cord patterns, animals (jaguars, parrots, owls, and others), humans, sea shells, ballcourts (represented by a two or four colored ''I''-shaped drawing) and other motifs. Humans are often arrayed in finely detailed costumes and may be represented playing musical instruments, sowing with a digging stick, armed for battle, seated within a structure, or in other attitudes. A decorative option was to excise or stamp designs in panels or registers.

The remainder of the vessel (or, if a featured motif is lacking, all of the vessel) is decorated with panels and registers with circumferencial bands near the rim and geometric patterns elsewhere. Other vessel forms known for Salua are short cylinders ranging grading into bowls, convex walled bowls (i.e., with bulging sides), composite walled bowls, and jars. Strangely enough, despite their exceptional decoration, colored stucco was sometimes used to cover areas of Salua vessels (when eroded this stucco leaves chalky traces). Salua vessels have rarely been found filled with red pigment.

Dating: Late Classic (associated with the Payu Ceramic Complex and the Lepa Phase).

Size: The cylindrical vessels grade into vertical walled bowls over a range of heights from 3.5–12.5″ (9–32 cm). Bowl diameters range from 6–12″ (15–30 cm).

Formal Names: The name Salua is a local term employed in the National Museum of El Salvador. It has been long recognized that probably several different ceramic groups are lumped under this term, and that at least some of these groups probably correspond with the so-called Ulua or Sula Valley Polychromes of neighboring Honduras (which in recent years have been divided among several ceramic groups). Sharer (1978) cites Salua as a special group of the Payu complex, termed Special: Polychrome B, and he also mentions the name Salua Polychrome. At Quelepa it was noted as an unnamed ceramic group referred to as Dark Orange and Black on Orange (Andrews 1976). Several examples are illustrated in Longyear 1944 and 1966. It is interesting to note the relative abundance of Salua Polychrome in national and private collections in El Salvador in comparison with Honduran collections.

Quelepa Polychrome: Hemispherical and composite wall bowls, and jars; bowls may have basal flanges or slight angle changes near the rim. Bowls may have small solid or larger hollow supports. Quelepa Polychrome has a hard and very white base (slip) over a fine red paste. On this white base were painted designs in orange (often applied as a wash over most of the vessel), red and black; very rarely a purple paint may be present. Designs include ''checkerboards'', sunbursts, circles, bands, wavy lines, and others. Animals may be depicted on the interior or exterior (jaguars, birds, and monkeys have been noted).

Dating: Late Classic (a member of the Lepa Ceramic Complex).

Size: Bowls may measure from 4.5–15″ (11–38 qcm) in diameter.

Formal Names: Termed as the Quelepa Polychrome Ceramic Group in Andrews 1976.

Los Llanitos Polychrome: Flaring walled bowls, most or all with solid tabular supports (supports may have effigy decoration). A cream colored slip was applied a red paste. Orange paint was applied to the entire interior of the bowl and in small areas bordered by black on the exterior. In addition to orange and black, colors may include dull red, sepia, and rarely purple. Two designs diagnostic of Los Llanitos Polychrome are a ''five-fingered flame'' and stacks of three or four horizontal bars of decreasing length.

Dating: Late Classic (a member of the Lepa Ceramic Complex).

Size: 7–12.5″ (18–32 cm) in diameter.

Formal Names: Termed Los Llanitos Polychrome by Longyear (1944) and as the Los Llanitos Polychrome Ceramic Group by Andrews (1976).

''Chinautla'' Polychrome: Flaring walled bowls with flat bases and 3 or 4 hollow conical supports with simple applique. Red and black-brown designs were painted over a cream slip in registers, including spirals, stepped frets, bars, and dots.

Dating: Late Postclassic (a member of the Ahal Ceramic Complex).

Size: 6.5–10″ (17–26 cm) in diameter.

Formal Names: First defined in Chalchuapa as the Chinautla Ceramic Group in Sharer (1978) due to its similarities with the ''Chinautla Polychrome tradition'' found mostly in the Guatemalan highlands. Most would probably now agree that this tradition may be subdivided into several distinct and locally distributed ceramic groups, of which the Chalchuapa variety would be one.

Machacal Purple Polychrome: Bowls (hemispherical, composite walled, or vertical walled with convex bases). With the exception of vertical walled bowls, these may be supported by ring bases, pedestal bases or 4 hollow cylindrical supports. Possesses an orange base slip with red and dark purple designs. Purple designs in the form of an horizontal ''S'' on the vessel exterior are common. Vessel bottoms usually have a simple purple design that some people have considered to vaguely resemble a bird. The generous use of purple paint on an orange base slip is a distinctive characteristic of this variety.

Dating: End of the Early Classic and beginning of the Late Classic.

Size: 5–11.5″ (13–29 cm) in diameter.

Formal Names: Termed Red and Purple on Orange by Boggs (in Longyear 1944), and Machacal Purple-polychrome by Sharer (1978).

Nicoya Polychrome: Hemispherical bowls, bowls with rounded to almost flat bases and flaring walls (these may have three hollow cylindrical or conical supports with effigy decoration as an option, often in the form of bird heads), cylindrical vases with ring bases, jars. Red, black, and yellow paint was applied over a very smooth white slip with a ''soapy'' texture. Usually over half of the vessel was left white. Designs include registers with geometric designs, human figures, and others. Rare vessels may have unusual forms and appendages.

Dating: Early Postclassic.

Size: Bowls range from 6–11″ (15–28 cm) in diameter; cylindrical vases range from 6.5–12″ (17–30 cm) in height.

Formal Names: Long called Nicoya Polychrome due to its relationship with the different varieties grouped under that name first defined for Nicaragua and Costa Rica. The variety found in El Salvador differs sufficiently from those varieties in forms and decoration to be considered as an additional type.

Chancala Polychrome: Hemispherical bowls, often slightly flaring from just under the rim. A cream base slip (often streaky in appearance) was painted with designs in brown-black and red. Animals rendered in a distinctive silhouette style were painted on opposing sides of the exterior (monkeys, lizards, and birds seem to be represented), with large solid circles, squares or cross-hatch designs between the two. The upper portion of the exterior body is divided by bands in a register holding step frets, circles, and/or other designs.

Dating: Late Classic.

Size: 6–8″ (15–20 cm) in diameter.

Formal Names: Termed Chancala Polychrome by Boggs (1972).

Salinitas Polychrome: Known in bowl forms with a streaky cream to orange base slip. Black circumferencial bands define registers that usually enclose alternating spirals and stylized animals outlined in black with orange infilling.

Dating: Late Classic Period.

Formal Names: Termed Salinitas Polychrome by Boggs.

3b. Vessels With Usulután Decoration

Here are included several different varieties of ceramics that prominently feature Usulután decoration as their distinctive trait. Usulután decoration is a negative technique, resulting in light-colored lines against a darker background. The light lines were achieved by applying a resist substance and then covering the vessel with a slip that fired a darker color. Since this failed to adhere to the areas with resist, these maintained their lighter shade (a simplified explanation). In its most elaborate version, the resist substance was applied with a multiple brush with as many as seven small brushes fastened in a row, allowing the creation of swirling parallel lines. The base color on these vessels ranges from salmon pink to dark yellow, with the lines being a lighter shade of the same. Some varieties have red paint added as rim bands or (in the case of the Chilanga Ceramic Group) simple designs. Formal names for the ceramic groups considered here are: Jicalapa, Puxtla, Izalco, and Chilanga (Sharer 1978, Demarest 1986, Andrews 1976).

3c. Plumbate Vessels

Unpainted vessels with a glazed appearance. Surface color ranges from dark brown-black to lead-colored to salmon-orange, and sometimes all are found on a single vessel. Some areas may be iridescent. This is an extremely hard ceramic and ''rings'' when tapped. Vessel forms include a variety of forms of jars, bowls, cylindrical vases, and may even include figurines. Effigy decoration is common.

Dating: Terminal Classic (San Juan variety) and Early Postclassic (Tohil variety).

Formal Names: Both San Juan and Tohil varieties are found in El Salvador (Sharer 1978). It is interesting to note that approximately one third of all Tohil vessels recorded in the only pan-Mesoamerican inventory to date were from El Salvador (Shepard 1948).

3d. Olocuilta Orange and Santa Tecla Red Vessels

These two distinctive varieties of Late Preclassic ceramic vessels share many forms and types of decoration. Forms include a variety of bowls that may have very wide everted rims with scalloped and incised designs (in extreme cases the rims may be extended to form fish or other animal effigies when viewed from above). Bowls may also include faceted flanges. Some bowls may take the form of toad effigies. Usulután decoration (very often poorly preserved) may be present. The Santa Tecla Red variety is distinguished by its dense dark red slip, while Olocuilta Orange has a light orange slip (often with a powdery texture when slightly eroded). Santa Tecla Red may have graphite rubbed into grooves.

Dating: Late Preclassic (Chul and Caynac Ceramic Complexes).

Formal Names: Santa Tecla and Olocuilta Ceramic Groups (Sharer 1978; Demarest 1986). Please note that in these sources ''Olocuilta'' (which is the name of a Salvadoran town) was misspelled ''Olocuitla''.

3e. Incised or Excised Vessels

Here are considered different varieties of ceramic vessels whose salient visual trait is decoration based on incision or excision.

Pinos: Pinos vessels have a smooth streaky black to brown slip with (post-slip) incisions on the exterior forming geometric designs. These incisions are sometimes filled with red or white pigment. Forms include a variety of bowl forms. Defined as part of the Chul and Caynac Ceramic Complexes of the Late Preclassic Period (Sharer 1978; Demarest 1986).

Lolotique: A variety of bowl forms of a dark and dull red color with fine post-slip incised geometric patterns. Defined as part of the Chul and Caynac Ceramic Complexes of the Late Preclassic Period (Sharer 1978; Demarest 1986).

Chalate Carved: Cylindrical vessels with a band of false glyphs or geometric designs carved below the rim. Details within this excavated band may be emphasized with incision. Vessel bodies are usually tan colored, and cream slip was sometimes added over the exterior, avoiding the carved band which sometimes was painted with red slip. When the cream slip is present, negative designs of dots, circles, water lilies, or egrets may be barely visible on the vessel body. The name of this Late Classic type is provisional and was proposed by Boggs based on its abundance in the Chalatenango area.

Red Excised: Cylindrical vessels with a band of false glyphs or geometric decoration excised below the rim and vertical excised grooves usually covering the rest of the exterior, sometimes with two opposing excised panels representing animal heads or other designs. Slipped with a dark red-orange color. Short solid tabular or nubbin supports may be present. Provisional name for a Late Classic type common in central El Salvador.

Cotzumalhuapa Incised Cylindrical Vases: Cylindrical vases, orange to brown in color, with fine incision including geometric motifs and monkeys. The rim area is distinguished by a band or groove. Late Classic Period.

3f. Vessels With Red Decoration

Here are grouped together varieties of ceramic vessels whose principal decoration was executed in red paint.

Marihua Red on Buff: Forms include: hemispherical bowls, bowls with rounded bases and flaring walls (these usually have three hollow or cylindrical supports, sometimes in the form of bird heads), and jars with three handles. Broad red lines form geometric designs on the buff colored interior of bowls and the exterior of jars. Designs include arcs, crosses, step frets, ehecatcozcatl (split snail shell motif), and others. Very rare are finely incised designs in a band on the exterior of bowls. Postclassic Period (Haberland 1964).

Guarumal: Almost all known examples are jars. Part of the jar exterior (reddish brown in color) is painted with a dense and hard red paint that is finely crazed. The paint may cover the upper portion of vessels, or may be distributed as panels, large dots or arcs. Rarely the entire vessel exterior is covered in red. A decorative option was to apply white paint in circles (applied with a hollow cane) and/or zigzagging lines. This white paint is also very hard and was applied over red painted areas. A small rabbit applique may appear on the vessel body. Late Classic Period (Beaudry 1983).

Delirio Red on White: Hemispherical bowls (sometimes made into an armadillo effigy by means of a shingled exterior and appliqued head and tail), bowls with flat or slightly rounded bottoms and flaring walls (these may have hollow cylindrical supports), jars (which may have a pair of effigy head handles below the rim), and other minor forms. A hard white slip was painted in red with very intricate geometric designs. Naturalistic forms are very rare. Late Classic Period (Lepa Ceramic Complex—Andrews 1976).

Cara Sucia Red Painted: Jars with dull red-orange paint over a cream-orange slip. The lower body is divided by vertical pairs of bands. Birds or other motifs may be painted on the shoulder of the vessel. Late Classic Period.

3g. Jars With Modeled Effigy Faces

Here are grouped together different varieties of ceramic jars that sharing the presence of effigy faces or heads applied to the vessel neck. Motifs include: old man, man with goatee and closed eyes, monkey, bird, and schematic humans.

3h. Tiquisate Vessels

Tiquisate vessels are entirely orange (ranging from light cream-orange to deep orange in color). Their surface is very hard and may ''ring'' when tapped. Vessel forms include hemispherical bowls and cylindrical vases. Decoration may take the form of rows of bosses, incised geometric designs, or stamped scenes of humans, animal heads, twisted bands, or other designs. Late Classic.

3i. Fine Paste Vessels

Forms include small flat bottomed bowls with vertical walls and hollow rattle supports, and piriform vessels with ring bases. Vessels walls are very thin and ''ring'' when tapped. An orange may be applied to the vessel with the exception of the base. Fine incising may be found on the exterior of bowls and may retain white and blue post-fire paint. Terminal Classic Period.

3j. Cara Sucia Pedestal-based Bowls

A distinctive type of bowl with a tall pedestal base. The bowls often have a basal flange, and red painted zones are sometimes found on the interior. Late Classic Period.

3k. Stuccoed Vessels

Here are grouped a variety of vessel forms and types whose common denominator for the purposes at hand is the presence of stuccoed decoration. The stucco involved is usually a white kaolin clay with blue, blue-green, red, yellow, or brown pigment mixed in, and probably had (originally) an organic binder or agglutinate. Since that binder long since ceased to function, the stuccoed decoration tends to be very fragile. Designs are usually simple bands or geometric motifs, but occasionally human or animal figures may be represented. Entirely stuccoed vessels seem to be most common in the Late Classic, and perhaps especially so in the Terminal Classic.

3l. Guazapa Scraped Slip Vessels

Jars with a brown body, over which was applied a cream colored slip that was finger dragged (like finger painting) while it was still wet, creating curving or wavy designs. A reddish-orange wash was sometimes applied over the scraped slip. Early and Late Classic Periods.

3m. Ancient Imports: Late Classic Palmar and Other Lowland Maya Ceramics

Several vessels of so-called ''Peten Glossware'' have been found in El Salvador that include the formally defined Palmar Ceramic Group, and may also include examples of the Saxche Ceramic Group and others (Sharer 1978). To date, three such vessels have been found in scientific excavation (one in a Tazumal tomb in the 1940's, a Palmar vessel in an offering with an eccentric flint in San Andrés in the 1970's, and a Palmar vessel in a grave on the outskirts of San Salvador in 1993). Several others have been documented in looting situations, including three recorded by Sharer (1978), and in private collections. Although these vessels were not made in the territory of El Salvador, they were definitely ancient imports and as such form part of Salvadoran cultural heritage, providing important testimony

relative to long-distance social and economic relationships.

Forms include bowls with flat or slightly rounded bottoms and walls ranging from slightly flaring (nearly vertical) to broadly flaring walls; shallow simple bowls; tecomates (spherical forms with a small orifice); and cylindrical vases. Bowls may have ring bases, hollow cylindrical supports, or other forms of supports. Decoration consists of an orange or cream base slip over which were painted designs in black, red, and sometimes yellow. Designs include: glyph bands; humans standing, seated, dancing, or in other attitudes; heads (human, animal, God K, and others); animals in different positions; and other themes rendered in Late Classic Lowland Maya style.

4. Ceramic Drums

Ceramic drums comprise a globular body with a short rim on one extreme (over which the drum surface was stretched) and a long open shaft on the other extreme (which served as a stand). The body may have incised decoration. Surfaces are usually slipped and well polished, and may range from dark brown-black to brown to brownish red in color. Late Classic Period.

5. Incense Burners

5a. Ladle Censers

This category groups together a variety of different spoon or ladle shaped incense burners. These have a handle (which may be a hollow tube or a flattened loop) which supports the ''spoon'' or ''ladle'' that actually held the embers over which incense was sprinkled. The ladle portion may have holes perforated to facilitate the circulation of air, and in the taller, more cup-like versions these holes may take the form of crosses or step frets (these are the so-called ''Mixteca-Puebla'' style censers). Animal heads, claws, or other effigies may be added to end of the handle.

5b. Three-pronged Censers

Standing cylinders with three vertical prongs at the top and two long vertical flanges on the sides. Effigy faces may be added to the vessel bodies (bats have been noted). Post-fire paint added in red, orange, and white. Late Preclassic and Early Classic Periods (Sharer 1978).

5c. Lolotique Spiked Censers

The bowl-shaped censer body is supported by a tall pedestal base with perforations in the form of two large squares or circles, or slits. Short spikes cover the base and body. May retain remnants of post-fire red or white paint. Late Classic Period (Andrews 1978).

5d. Las Lajas Spiked Censers

Large hourglass-shaped censer covered by short spikes. Incised or modeled decoration may be found on the everted rims found at top and bottom. An internal shelf may be present to hold the large clay dish that supported the embers. Early Postclassic Period (Fowler 1981).

5e. San Andrés Stone Censers

Squat barrel-shaped censers of hard volcanic stone with columns of spikes on part of the exterior. The upper part of these censers have a dish-like depression to contain embers. Late Classic Period.

5f. Large Effigy Censers

Different varieties of censers whose common traits are their relatively large size and the prominent presence of elaborate effigies covering much or all of the censer body. In extreme cases, the censer is entirely concealed within a virtual ceramic sculpture. As an alternative to a single large effigy, some present several figures on a single censer, or a single element (like a head) repeated several times. Recorded effigies have included: the god Tlaloc (identifiable by a large ring around each eye); an individual with bulbous protruding eyes; the god Xipe Totec (appearing as an individual wearing a flayed human skin); jaguars; monkeys; iguanas; large saurians (so-called Earth Monsters), GIII (a manifestation of the Sun god identifiable by a twisted cord extending vertically between the eyes and catfish-like barbels curling from the sides of the mouth); and others. Mostly Late Classic and Postclassic Periods.

5g. Cotzumalhuapa Goblet Censers

Large goblet shaped vessel forms (essentially a large bowl with walls that begin as vertical and midway to the rim moderately flare outward, with a pedestal base), usually with signs of burning on the interior base. These censers may be unadorned, or may have two or three hollow head effigies rising directly from the rim, or they may have many small effigy heads attached in a row around the vessel just below its rim (monkey and iguana heads have been documented). Lids, when present, may appear as inverted bowls, with or without an effigy figure on top (one example has a large seated monkey). Late Classic Period.

6. Mushroom Effigies

Though some regard these as phallic effigies, most agree that mushrooms are represented. Two varieties are presented here.

6a. Ceramic Mushroom Effigies

Tall hollow bases rise from a flaring base and taper upwards to support the mushroom ''cap''. The body may be plain or may carry red paint and fine incisions (usually in the form of rows of triangles). Probably Late Preclassic and Early Classic Periods.

6b. Stone Mushroom Effigies

Usually made of fine-grained volcanic stone. The shaft of the mushroom rises from a base that may be cylindrical or square, and occasionally has short supports. Near the ''cap'' may often be found two raised bands representing the point from which the cap separates from its stem as it opens. Late Preclassic and Early Classic Periods.

7. Stone Sculpture

7a. Preclassic Animal Head Sculptures

Monumental sculptures in volcanic stone representing very stylized animal heads (Demarest 1986). These have usually been interpreted as jaguar heads, but reptilian elements may also be present. These were apparently architectural elements associated with Late Preclassic Period pyramids.

7b. Cotzumalhuapa Sculpture

Monumental sculptures in volcanic stone in the Cotzumalhuapa style (see Parsons 1967, 1969). Themes known from El Salvador include: a snake emerging from the ground, a skeletal figure with a hat resembling a derby, a coiled snake, and a disk with a jaguar face. Some of these are made from two stones which connect by means of a hidden tenon. Late Classic Period.

7c. Tenoned Head Sculptures

Long sculptures of volcanic stone with an animal head at one end and an undecorated tenon at the other, intended to be mounted in monumental architecture. The heads usually represent a bird or reptile. Late Classic Period.

7d. Balsamo Sculpture

These portable sculptures are usually made of vesicular volcanic stone and represent a human form in a squatting position. The vertebrae are usually indicated as a notched ridge on the individual's back. Although this form predominates, a grasshopper sculpture is also documented. Postclassic Period.

7e. Yugos

''U''-shaped ballgame yugos (yokes) made of dense volcanic stone. Very rare examples may carry carved decoration. Late Classic Period.

7f. Hachas

Thin ballgame hachas usually representing animal or human heads (a variety of other designs are also found, such as a coiled snake and a skull). Made of fine-grained volcanic stone. Some examples have iron pyrite ''eyes'' and traces of red paint. Late Classic Period.

7g. Effigy Metates

Metates with a thin and slightly curving body, with an animal head at one end. A tail may be present at the other end. These are usually supported by three tall supports. Made of dense volcanic stone. Late Classic and Early Postclassic Periods.

8. Small Stone Artifacts

8a. Jade or Similar Greenstone Artifacts

Lustrous and hard green-colored stone crafted into: beads (spherical, globular, tubular, discoidal); pendants (plain or with human or animal effigies, including so called ''axe gods'' and canine tooth effigies); plaques (or pectorals) with elaborate designs; masks; mosaics; earspools; animal or human effigies (heads or full figure); or schematic squatting human forms (similar to examples from the El Cajón area of Honduras).

8b. Eccentric Chipped Stone

Flint, chert, or obsidian flaked into eccentric forms. These may include: a zigzag lance point form, a disc with three prongs or spike on one side, and elaborate large effigy eccentrics apparently meant to serve as scepters (similar to those found in caches at Copán, Quiriguá, and other sites). Late Classic Period.

8c. Obsidian Artifacts in General

Prismatic blades, bifacial artifacts (lance points, arrow points, ''knives''), cores, and other objects made from obsidian (a black colored volcanic glass).

8d. Pyrite Mosaic ''Mirrors''

A mosaic of carefully fitted plaques of iron pyrite placed on a thin disc-shaped backing made of stone or clay that may have designs on one side. When new, the pyrite reflected light brilliantly, but archaeological specimens have often lost their shine due to oxidation (the pyrite may convert to a brownish black crust). Late Classic and perhaps other periods.

8e. Paint Pallets

Small artifacts of vesicular volcanic stone with a dish shaped or squared depression on one surface. Some pallets are simple, being essentially natural cobbles of a flattened oblong shape with the depression worked on one surface, or sometimes two depressions on opposing surfaces. Others are elaborately carved and may include four supports and animal or human head effigies. Traces of red pigment have been found on some pallets. Late Classic and possibly other periods.

8f. Translucent Stone Bowls

Thin bowls carved from light colored translucent stone (which in different cases has been labeled as marble, alabaster, and onyx). At least some of these may be ancient imports from the territory of Honduras. Late Classic Period.

8g. Barkbeaters

Tabular dense stone artifacts with numerous longitudinal parallel incisions worked on one or both broad faces. On one variety (Classic and Postclassic Periods), three of the four narrow sides have a broad groove meant to receive a very pliable stick wound around it as a handle. The other variety considered here has an integral stone handle (Late Preclassic).

8h. Celts

These were originally mounted on wood handles for use as hatchets or adzes. Made of very dense, fine-grained stone and are often highly polished near the bit and sometimes over the entire body. Some examples are made of jade or stone resembling jade.

9. Metal Artifacts

9a. Copper Celts

Mounted on wooden handles for use as hatchets or adzes. Long copper celts with a rectangular cross section. May have a dark patina. Postclassic Period.

9b. Copper Rings

Copper finger rings made with the lost wax technique. Documented examples include filigree details or effigy heads. Terminal Classic and Postclassic Periods.

9c. Copper Bells

Copper bells, plain or with effigies, usually made by the lost wax technique. Postclassic Period.

9d. Tumbaga Artifacts

Tumbaga is an alloy of copper and gold. Artifacts made of Tumbaga may present a mottled surface looking golden in parts. Tumbaga artifacts documented for El Salvador include small animal figurines made by the lost wax technique, and a small hammered sheet mask with eyes and mouth cutouts. Late Classic Period.

Inapplicability of Notice and Delayed Effective Date

Because this amendment is being made in response to a bilateral agreement entered into in furtherance of the foreign affairs interests of the United States, pursuant to § 553(a)(1) of the Administrative Procedure Act, no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is both impracticable and contrary to the public interest.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a ''significant regulatory action'' as described in E.O. 12866.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Rules and Regulations, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general authority is revised and specific authority citation for Part 12, in part, continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104–12.104i also issued under 19 U.S.C. 2612.

2. Paragraph (a) of § 12.104g is added to read as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) The following is a list of agreements imposing import restrictions on the described articles of cultural

property of State Parties. The listed Treasury Decision contains the Designated Listing with a complete description of specific items or categories of archaeological or ethnological material designated by the agreement as coming under the protection of the Convention on Cultural Property Implementation Act. Import restrictions listed below shall be effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists. Any such extension is indicated in the listing.

State party	Cultural Property	T.D. No.
El Salvador ..	Archaeological material representing Prehispanic cultures of El Salvador.	T.D. 95–20

* * * * *

§ 12.104g [Amended]

3. Paragraph (b) of § 12.104g is amended by removing, from the listing of emergency import restrictions, the entry for El Salvador.

George J. Weise,

Commissioner of Customs.

Approved: March 7, 1995.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–6122 Filed 3–9–95; 8:45 am]

BILLING CODE 4820–02–P

Friday
March 10, 1995

Part X

The President

Executive Order 12955—Nuclear Cooperation With EURATOM

Federal Register
Vol. 60, No. 47
Friday, March 10, 1995

Presidential Documents

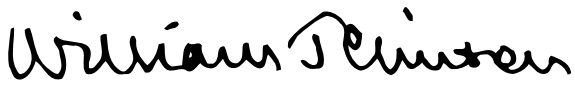
Title 3—

The President

Executive Order 12955 of March 9, 1995

Nuclear Cooperation With EURATOM

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to section 126a(2) of such Act and extended for 12-month periods by Executive Order Nos. 12193, 12295, 12351, 12409, 12463, 12506, 12554, 12587, 12629, 12670, 12706, 12753, 12791, 12840, and 12903, failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of United States nonproliferation objectives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to December 31, 1995. Executive Order No. 12903 shall be superseded on the effective date of this Executive order.



THE WHITE HOUSE,
March 9, 1995.

[FR Doc. 95–6211
Filed 03–09–95; 10:56 am]
Billing code 3195–01–P

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